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**TO THE**  
**EXECUTIVE DOCUMENTS,**

**PRINTED BY ORDER OF THE SENATE,**

**FOR THE**  
**SECOND SESSION OF THE FORTIETH CONGRESS**

**OF THE**  
**UNITED STATES OF AMERICA.**

**1867-'68.**

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**IN TWO VOLUMES.**

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**Volume 1 contains No. 1 to No. 40, inclusive.**  
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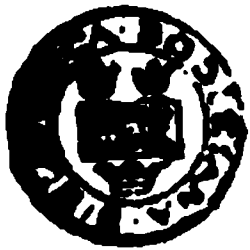
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MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING.

*In compliance with a resolution of the Senate of the 26th ultimo, correspondence with Mr. Motley, recent minister of the United States at Vienna, or with the Austrian government, not heretofore communicated, especially so far as the same relates to the removal of Mr. Motley from his post.*

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DECEMBER 5, 1867.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

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WASHINGTON, December 4, 1867.

*To the Senate of the United States :*

I transmit to the Senate, in answer to their resolution of the 26th ultimo, a report from the Secretary of State, with accompanying papers.

ANDREW JOHNSON.

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DEPARTMENT OF STATE,  
Washington, November 30, 1867.

SIR: The Secretary of State, to whom was referred the resolution of the Senate of the 26th instant, requesting the President to communicate to that body, "if in his opinion not incompatible with the public interests, any correspondence with Mr. Motley, recent minister of the United States at Vienna, or with the Austrian government, not heretofore communicated, especially so far as the same relates to the removal of Mr. Motley from his post," has the honor to lay before the President the papers referred to in the accompanying list.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

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*List of papers.*

Mr. Seward to Mr. Motley, April 18, 1867.  
Mr. Motley to Mr. Seward, May 4, 1867.  
Mr. Seward to Mr. Motley, May 24, 1867.  
Mr. Motley to Mr. Seward, June 15, 1867.

## REMOVAL OF MR. MOTLEY

*Mr. Seward to Mr. Motley.*

No. 219.]

DEPARTMENT OF STATE,  
*Washington, April 18, 1867.*

SIR: Your letter of the 11th of December last, resigning the office of United States minister to Vienna, was duly received and laid before the President.

I am now directed to inform you that the resignation has been accepted. Although the Senate has not yet confirmed the nomination of your successor, it is deemed expedient to relieve you from further charge of the mission.

The usual letter from the President to the Emperor, announcing the termination of your functions, is consequently enclosed, with an office copy, which last you will communicate to the minister for foreign affairs, with a note requesting the appointment of a time for you to present the original.

Before leaving Vienna, you will present the secretary of legation as chargé d'affaires *ad interim*, and will commit to his custody the archives and books.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. LOTHROP MOTLEY, Esq., &c., &c., *Vienna.*

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*Mr. Motley to Mr. Seward.*UNITED STATES LEGATION,  
*Vienna, May 4, 1867.*

SIR: Your despatch No. 219, of April 18, was received to-day, together with *one* enclosure, a sealed letter to the Emperor of Austria. You inform me that an office copy of said letter was likewise enclosed, which copy you instruct me to communicate to the minister of foreign affairs, with a note requesting the appointment of a time for me to present the original.

I lose no time in notifying you that the office copy was not enclosed, and that it is, therefore, not yet in my power to carry out your instructions thus explicitly given.

I suppose that this oversight will have been at once discovered, and the necessary document forwarded by the steamer of April 24; otherwise, I request you to send it as soon as possible after receipt of this despatch.

I am, sir, your obedient servant,

J. LOTHROP MOTLEY.

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

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*Mr. Seward to Mr. Motley.*

No. 220.]

DEPARTMENT OF STATE,  
*Washington, May 24, 1867.*

SIR: I have received your despatch of the 4th instant, No. 235, and herewith enclose, as requested by you, a transcript of the sealed letter to the Emperor of Austria, the original of which accompanied the instruction from this department of the 18th ultimo.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. LOTHROP MOTLEY, Esq., &c., &c., *Vienna.*

*Mr. Motley to Mr. Seward.*

No. 236.]

LEGATION OF THE UNITED STATES OF AMERICA,  
*Vienna, June 15, 1867.*

SIR: Your despatch No. 220, of the 24th of May, was received on the 8th of June, together with its enclosure, a transcript of the sealed letter to the Emperor of Austria, which sealed letter reached me (as already stated in my No. 235) enclosed in your No. 219, of April 18.

Your said despatch No. 219, received on the 4th of May, 1867, contains the first and only acknowledgment of the receipt of my letter of the 11th of December, 1866, begging respectfully to resign my post as United States minister at Vienna.

You state in it that you are directed to inform me that the resignation has been accepted; that although the Senate has not yet confirmed the nomination of my successor, it is deemed expedient to relieve me of further charge of the mission, and that before leaving Vienna I am to present the secretary of legation as chargé d'affaires *ad interim*, committing to his custody the archives and books.

As soon as I received this despatch I informed the minister of foreign affairs confidentially of its contents, stating to him that the United States government no longer considered me minister at this court, and had forwarded to me a sealed letter for the Emperor, in which, as I was informed, the President announced to his Majesty the termination of my functions.

I further observed that by an accidental omission, no doubt very soon to be repaired, the usual office copy of that letter had not yet reached me, but that so soon as it came to hand I should, according to uniform diplomatic usage, and to my explicit instructions from the United States Secretary of State, communicate the transcript, together with a written request for an audience at which to present the original.

Meantime, a circular dated the 27th of May, from the imperial-royal minister of foreign affairs, informed me that his imperial-royal august Majesty would receive, at Buda Pesth, on the 7th of June, those chiefs of foreign missions accredited at this court, who should repair to the capital of Hungary to be present at the solemnity of the coronation.

As the Emperor was already aware, through the minister of foreign affairs, that the United States government had deemed it expedient to relieve me from further charge of the United States mission, although no successor had been appointed; that the President had sent a letter for his Majesty revoking my powers and announcing the termination of my functions; and as it seemed probable that my final audience to deliver that letter would take place before the day of the coronation, it was obviously impossible for me to arrange to take part in the ceremonies at Pesth-Buda with the other chiefs of foreign missions.

I begged the minister of foreign affairs accordingly to convey to the Emperor my deep regret that the peculiar circumstances of the case left the United States unrepresented on this solemn and historical occasion.

Having received your despatch No. 220, with its enclosure, on the 8th of June, the morning of the coronation, I at once signified at the foreign office my desire for an audience at which to present the President's letter. My note, enclosing the copy of that letter, was answered by his excellency Baron de Beust on the 13th, who stated that the Emperor would receive me on the 14th, the day after his return from Pesth.

At this audience, before delivering the letter, I made a brief address, of which I append the translation:

"I have the honor to state that I am the bearer of a letter from the President of the United States to your imperial Majesty, announcing that my functions as American envoy at this court are terminated.

"I have also the honor to observe that I found myself placed, six months ago, under the necessity of asking to resign my post, for personal reasons, with which I need not trouble your Majesty, but by no means because I have not always highly appreciated the privilege of representing the American republic at your Majesty's court. I trust that I may be permitted to say that I have been steadily influenced, during my residence here, by the desire and by the determination to cultivate, not in phrase, but in fact, the most sincere relations of friendship between the United States and the Austrian empire, and that I feel convinced that a more cordial good feeling never existed between those two great nations than now exists. I have great pleasure, too, in saying that during this whole period, including the four years of civil war which raged in my own country, I have found nothing but friendly feelings and expressions on the part of your Majesty, the government, and the Austrian people toward the United States, of which fact I beg to express my most earnest appreciation.

"I am sure, and I am expressly instructed to state, that the government and people of the United States thoroughly reciprocate these kindly feelings. The American people have watched with deep interest the progress of the arrangements now so happily concluded with the ancient kingdom of Hungary, and will hear with joy of the re-establishment of its time-honored and liberal constitution, and of the solemn and enthusiastic ceremonies which have just accompanied your Majesty's coronation at Pesth. No nation in the world feels a more earnest sympathy than does America, with the progress made by the Austrian empire, on the path of liberal and representative institutions, on which it is conscientiously moving, because we feel that it is the only path that leads to the permanent grandeur and happiness of nations. That the memorable 8th of June may mark an epoch of union, prosperity, and peace at home and abroad for the whole Austrian empire, and of happiness for your Majesty and your imperial family, is, I am sure, the sincere wish of the nation whose representative I have had the honor of being, as it is my own. Begging to thank your Majesty, personally, for the uniform and gracious courtesy which I have experienced as envoy from the United States, I have the honor to place in your hands the President's letter."

The Emperor, in reply, was pleased to express, very energetically, his regret at my departure, and to add that he had been constantly hoping that it would be found possible to retain me at my post. He stated his thorough appreciation of the kindly feelings and excellent relations existing at present between the United States and this empire—relations which he felt confident would be always preserved, and to maintain which he was well aware that I had always done my best, in accordance with the instructions of my government.

He expressed his sincere thanks to the United States government for their earnest intercession in behalf of his brother Maximilian—an act of humanity and international kindness of which he had already, on a former occasion, signified to me his profound appreciation—and, while alluding to his natural anxiety on the subject, he dwelt upon his hopes for his brother's safety, founded on his confidence in the generous and powerful influence of the United States.

After some little conversation on general topics, the Emperor then bade me very cordially farewell.

On the following morning, 15th June, by appointment, I called upon Baron Beust, and, according to your instructions, presented the secretary of legation, G. W. Lippitt, esq., to his excellency as United States chargé d'affaires *ad interim*. The archives and books were, on the same day, placed in the hands of Mr. Lippitt.

I have thus related the closing incidents of my mission.

As you chose to arraign me, in November last, officially and peremptorily, upon charges supplied to you by an unknown informer, I had naturally expected

some notice from you of the reply in which I denounced those charges as false, calumnious, and contemptible. This not having been the case, I think proper to place upon the records of this legation, and of the State Department, the fact that the author of the infamous libel upon my character whence you derived your charges, is absolutely unknown to me; that, to the best of my knowledge, memory, and belief, he never saw me, nor heard the sound of my voice; and that, until the publication of his letter, I never heard of his name.

That the charges, by whomsoever invented or uttered, are false and vile, I have already told you in my letter of 11th December last.

I am, sir, your obedient servant,

J. LOTHROP MOTLEY.









LETTER  
OF  
THE SECRETARY OF WAR AD INTERIM,  
COMMUNICATING,

*In compliance with a resolution of the Senate of the 27th ultimo, copies of papers relating to the case of Fitz John Porter, late an officer in the army of the United States.*

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DECEMBER 4, 1867.—Read, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

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WAR DEPARTMENT,  
*Washington City, December 3, 1867.*

SIR: In compliance with the Senate resolution of the 27th ultimo, I have the honor to enclose copies of all papers on file in this department relating to the case of Fitz John Porter, late an officer of the army of the United States. Other papers pertaining to the same case have been submitted to the President and not yet returned.

Very respectfully, your obedient servant,

U. S. GRANT,  
*Secretary of War ad interim.*

Hon. B. F. WADE,  
*President of the Senate.*

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WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,  
*Washington, November 30, 1867.*

SIR: In compliance with your instructions, I have the honor to transmit herewith copies of all papers on file in this office in relation to the application of Fitz John Porter for a revision of his case, called for by Senate resolution of the 27th instant.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,  
*Assistant Adjutant General.*

General U. S. GRANT,  
*Secretary of War ad interim.*

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NEW YORK, *September 22, 1866.*

GENERAL: Flattering myself that the result of my trial by court-martial in 1863 was not passed unnoticed by you, and believing that you would take pleasure in being instrumental in discovering any erroneous finding, and in

remedying any wrong resulting from it, I take the liberty of asking the favor to aid, by a letter to the President of the United States, or in whatever manner you may deem best, in effecting by his authority a re-examination of the proceedings of my court-martial, and, if agreeable to you, making known your action to the Hon. Reverdy Johnson, for use at such time as he may regard most proper.

Though conscious of innocence of any criminality such as alleged against me, and of all intentional wrong-doing, and knowing of erroneous findings, I cannot expect or ask others to be convinced without an examination of the evidence or a presentation by unprejudiced authority; but having, to a certain date, an unblemished record of no ordinary services well and faithfully performed to my country, it might be presumed that, ever careful of my honor, I could not have been reckless of my fame, upon which hang all the hopes of wife, children, and friends, and connected as it may be with the history and destiny of my country, and I trust such a record and influence may have weight in causing a reconsideration of the proceedings with the view of ascertaining any wrong resulting from erroneous findings and remedying it, if any be found.

In the hope my appeal may meet with a favorable response, I am, general, with high respect, your obedient servant,

F. J. PORTER.

General ULYSSES S. GRANT,  
*Washington City.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

NEW YORK, *September 24, 1866.*

GENERAL: In the hope that amid your manifold duties time can be spared to read the accompanying article from the "World," of this city, I take the liberty of sending it, as bearing upon the object of my letter of the 22d instant.

The article was written by (as I am informed) one of the editors of Harper's Monthly Magazine, without my solicitation or knowledge; and, as far as it goes, is a correct presentation of facts embraced in my trial.

I am, general, with high respect, your obedient servant,

F. J. PORTER.

General ULYSSES S. GRANT,  
*Washington City.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

NOTE.—The article from the New York World, herein referred to, was not received with this document.

HARTFORD, CONNECTICUT, *September 21, 1867.*

MY DEAR GRANT: Fitz John Porter writes me to ask that I will do something to aid him in getting a rehearing of his case. All that I can do is to write you and give you the reasons why I think it will be an act of justice to give him the opportunity to clear himself from the terrible imputation now resting upon him.

I saw Porter in Pope's company the day after the latter's defeat at Bull Run, and afterwards, until we arrived in front of Washington. I know that they were on very cordial terms, and that Pope on some occasions advised with him confidentially. I talked a good deal myself with Pope, and I think that if he had, had at that time any feeling that Porter had acted badly, I would have learned it then; but I had no suspicion that he felt aggrieved by anything that Porter or any one who was then near him had done. At Fairfax Court House, the day that we arrived at Washington, I noticed that Pope was particularly in good spirits and cordial with Porter. I have therefore always thought that the attack upon Porter was the result of an afterthought, and that the charges were not original with Pope.

During the trial I thought it proper to inform Porter that Generals J. F. Reynolds, George H. Thomas, and myself, would, if requested, go before the court and swear that we would not believe Pope or Roberts under oath. I had consulted General Reynolds before I made the proposition. He consented to go himself, and thought General Thomas would have no hesitation in giving such evidence. I was myself well convinced of General Thomas's opinion of Pope's veracity from what I had often heard him say, before the war. Porter declined to call us up to give this evidence, on the ground that the court appeared so well disposed towards him, and his case was going on so well, that he did not wish to irritate the court by an attempt to break down the evidence of the principal prosecutors. The sequel showed that he made a serious mistake.

But I think that the most equitable reason for a review of Porter's case is this: The Judge Advocate General, Holt, was the judge advocate of the court. That was right enough. But no one will deny that a judge advocate of a military court, when a prisoner is defended by able counsel, becomes to a great extent a prosecutor, and as such necessarily is biased against the prisoner. To say that General Holt was prejudiced against Porter, is merely to say that he is like other men, and that he was so prejudiced the whole proceeding shows. Whether it is better or worse for the course of justice that the judge advocate should be prejudiced has nothing to do with the question.

But an abstract of the proceedings and finding and sentence of the court had to be made by the Judge Advocate General for presentation to the President of the United States, upon which (for he necessarily could not read the evidence) he was to make up his mind as to the guilt or innocence of the accused. Was it right, proper, or decent, that this abstract should be made up by the very man who had done his best to convict the prisoner? Did not such a proceeding prevent the President from learning any extenuating circumstance, or finding out anything weak in the evidence, if any such there were? Did it not, in fact, take away any chance from Porter which he might have had, had a cool, unbiased person of legal knowledge made this abstract instead of General Holt?

The whole business seems to me like a prosecuting attorney passing sentence upon a prisoner in a civil court immediately after the speeches of counsel. I think the fact that Mr. Lincoln had only General Holt's abstract to guide him in making up an opinion on the proceedings of that court is enough to invalidate the whole thing.

It has been said, and perhaps with truth, that there is no precedent to guide in this matter. It may be said with equal truth, that never since the trial of Admiral Byng was injustice so without precedent done. I think that there never was a more appropriate opportunity for going beyond precedent, and establishing the fact that no matter how or by whom flagrant injustice is done, you, when the power is in your hands, will see the right done.

For my part, I know that Porter was as loyal as the most loyal soldier now dead, and that no thought of treason or disaffection entered his brain. He was a victim to Pope's failure in Virginia, and it seems to me he has remained a

victim long enough. You will, in my opinion, do an act which will not be the least among those which will make up your fame if you will lend your weight towards giving Porter the opportunity to retrieve his character as a citizen and soldier.

I am truly your friend,

W. B. FRANKLIN.

General U. S. GRANT,

*Commanding Army of the United States.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

BOSTON, *September 21, 1867.*

GENERAL: At a meeting of the officers of the first division, 5th corps, called together to give an expression of sympathy at the death of our loved commander, General Griffin, the enclosed petition was presented and signed by all the officers present.

The duty of forwarding the document to you was intrusted to me, and in so doing I would say that I express the sentiments of most of those who served under General Porter in saying that they most earnestly desire that his request for a new trial be granted.

It was my fortune to be in command of a regiment in General Porter's corps during that unfortunate campaign which ended in the battle of Bull Run, and having personal knowledge of many of the circumstances connected with his career, I have always felt that he was most unjustly dealt with.

Very respectfully, yours,

L. STEPHENSON, JR.,  
*Late of 32d Massachusetts Volunteers.*

General U. S. GRANT.

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

BOSTON, *September 17, 1867.*

The undersigned, who have served as officers of the 5th corps under General Fitz John Porter, respectfully, but urgently, request that the proceedings in his case may be revised in accordance with the application which they learn from the public press he has addressed to the department.

Wm. S. Tilton, lately brevet brigadier general, United States volunteers.

A. P. Martin, late brevet colonel, United States volunteers.

George M. Barnard, jr., late brevet colonel eighteenth Massachusetts volunteers.

John W. Mahan, late major ninth Massachusetts volunteers.

Aaron F. Walcott, late first lieutenant battery C, Massachusetts volunteers.

Francis J. Parker, colonel thirty-second Massachusetts infantry.

Geo. A. Batchelder, brevet lieutenant colonel twenty-second Massachusetts volunteers.

Mich. Scanlan, captain ninth Massachusetts volunteers.

P. T. Hanley, late lieutenant colonel ninth Massachusetts volunteers.

John M. Tobin, captain ninth Massachusetts volunteers.

James F. Moore, lieutenant second Maine volunteers.  
Walter S. Davis, brevet lieutenant colonel twenty-second Massachusetts volunteers.  
Louis N. Tucker, brevet major eighteenth Massachusetts volunteers.  
Marcus M. Davis, captain twenty-second Massachusetts volunteers.  
Thos. Sherwin, jr., brevet brigadier general, late twenty-second Massachusetts volunteers.  
L. Stephenson, jr., brevet brigadier general, late thirty-second Massachusetts volunteers.  
J. Cushing Edwards, brevet brigadier general, late thirty-second Massachusetts volunteers.  
Chas. K. Cobb, first lieutenant and adjutant, late thirty-second Massachusetts volunteers.  
Edward O. Shepard, brevet lieutenant colonel, late thirty-second Massachusetts volunteers.  
Chris. Plunkett, late captain ninth Massachusetts volunteers.  
Wm. M. Strachan, lieutenant and adjutant ninth Massachusetts volunteers.  
Wm. M. Strachan, late captain ninth Massachusetts volunteers.  
Chas. W. Thompson, first lieutenant thirty-ninth Massachusetts volunteers, formerly twelfth Massachusetts volunteers.  
John F. Doherty, late captain ninth Massachusetts infantry.  
P. E. Murphy, late first lieutenant ninth Massachusetts volunteers.  
Wm. H. Gerty, late captain thirty-second Massachusetts volunteers.  
B. F. Finan, late first lieutenant ninth Massachusetts infantry,  
C. C. Bumpus, captain thirty-second Massachusetts volunteers, company B.  
General U. S. GRANT.

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*













LETTER  
OF  
THE SECRETARY OF WAR AD INTERIM,  
COMMUNICATING,

*In compliance with a resolution of the Senate of the 27th ultimo, further information in relation to the case of Fitz John Porter.*

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DECEMBER 12, 1867.—Referred to the Committee on Military Affairs and the Militia and ordered to be printed.

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WAR DEPARTMENT, WASHINGTON CITY,  
December 11, 1867.

SIR : In replying to the Senate resolution of the 27th ultimo, respecting the case of Fitz John Porter, a copy of a letter addressed to the General of the army by William B. Franklin, dated September 21, 1867, was sent with the papers called for. I have now the honor to ask, at the request of the writer of that letter, that for the words "we would not believe Pope or Roberts under oath," the following be substituted, viz : "We would not believe two of the principal witnesses for the government under oath."

Very respectfully, your obedient servant,

U. S. GRANT,  
*Secretary of War ad interim.*

Hon. B. F. WADE,  
*President of the Senate.*



LETTER  
OF  
THE SECRETARY OF THE NAVY,  
COMMUNICATING

*Report of the board appointed July 6, 1867, to "examine the claims of certain contractors for the construction of vessels of war and steam machinery," under act of Congress approved March 2, 1867.*

DECEMBER 4, 1867.—Read, referred to the Committee on Naval Affairs, and ordered to be printed.

NAVY DEPARTMENT, *December 4, 1867.*

SIR: An act of Congress approved on the 2d of March last directs the Secretary of the Navy "to investigate the claims of all contractors for building vessels of war and steam machinery for the same, under contracts made after the first day of May, eighteen hundred and sixty-one, and prior to the first day of January, eighteen hundred and sixty-four," and to "report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the government aforesaid, and the amount already paid the contractor over and above the contract price."

To comply with the requirements of this act, it became necessary to convene a board of officers for the examination of the several claims presented. Commodore J. B. Marchand, Chief Engineer J. W. King, and Paymaster Edward Foster, were assigned to this duty, and their report is herewith transmitted.

I have the honor to be, very respectfully,

GIDEON WELLES,  
*Secretary of the Navy.*

Hon. BENJ. F. WADE,  
*President of the Senate pro tem.*

NAVY DEPARTMENT,  
*November 26, 1867.*

SIR: We have the honor to report that, in obedience to your order of July 6, 1867, we have carefully scrutinized each of the claims presented under the act of Congress approved March 2, 1867, "to investigate the claims of certain contractors for building vessels of war and steam machinery," and respectfully beg leave to enclose, herewith, the tabular statement called for by said act of Congress.



## 2 CLAIMS FOR THE CONSTRUCTION OF VESSELS OF WAR, ETC.

Messrs. Harlan & Hollingsworth, of Wilmington, Delaware, did not present a statement of their claim for delays occasioned by the government while constructing the harbor and river monitor Saugus and light-draught monitor Napa; but in a letter to you, under date of October 12, they claim to be entitled to the same sum for the Saugus that the board may award to the Tecumseh, and also to the same sum in case of the Napa that may be awarded to the Casco.

After examination, the board finds that Messrs. Harlan & Hollingsworth are entitled for the Saugus to the same sum that was awarded to Mr. Harrison Loring in case of the Canonicus, viz., \$38,513, but do not find anything due in case of the Napa.

We have the honor, sir, to be, very respectfully, your obedient servants,

J. B. MARCHAND,

*Commodore and President.*

J. W. KING,

*Chief Engineer and Member.*

EDWARD FOSTER,

*Paymaster and Member.*

Hon. GIDEON WELLES,

*Secretary of the Treasury.*



# CLAIMS FOR THE CONSTRUCTION OF VESSELS OF WAR, ETC. 3

*Tabular statement showing the result of the action of the board appointed July 6, 1867, by the honorable Secretary of the Navy, to examine the claims of certain contractors for the construction of vessels of war and steam machinery, under act of Congress approved March 2, 1867.*

Name of contractor.	Description of work.	Contract price.	Whole increased cost of the work over the contract price as claimed by the contractor.	Amount of such increase to be due.	Amount already paid and above the contract price. (Obtained from the bureau.)
Beor & Co. and Paries, Beor & Co.	River and harbor monitor Manhattan, Tussumah and Mahopac	\$1,260,000 00	\$1,296,101 92	\$115,506 01	\$267,195 58
Alexander Swift & Co.	River and harbor monitor Onondaga and Catawba.	1,000,000 00	663,757 29	None.	129,849 08
Shawmut & Mason	River and harbor monitor Manhattan	460,000 00	336,125 00	None.	168,592 94
Miles Greenwood	River and harbor monitor Typewriter	460,000 00	346,455 23	None.	173,273 44
Harrison Loring	River and harbor monitor Cananda	460,000 00	267,709 40	32,513 00	162,661 59
J. H. & W. W. Correll	Turrets, &c., Manitowish and Tonawanda.	260,050 00	461,777 72	None.	260,657 63
Atlantic Works Boston	paranetles	985,000 00	427,335 54	None.	262,322 18
Charles W. Whitney					
Snowden & Meigs		335,000 00	346,457 46	None.	165,682 14
Merrick & Sons		365,000 00	324,676 14	None.	175,795 19
Wilcox & Whiting		366,000 00	305,425 21	None.	165,529 53
Donald McKay		366,000 00	214,769 63	None.	197,116 08
William Paries		365,000 00	287,470 83	None.	167,446 00
A. & W. Daumard & Sons		365,000 00	291,860 01	None.	196,527 20
George O. Beor		365,000 00	264,073 53	None.	207,311 00
Atlantic Works Boston		365,000 00	294,077 76	4,852 58	192,709 57
Curtis & Tilden		365,000 00	384,136 50	None.	196,111 00
C. W. McCord		365,000 00	364,073 55	None.	194,135 70
McKay & Aldus		365,000 00	337,269 46	None.	163,615 37
George W. Lawrence		365,000 00	210,099 62	None.	925,445 59
Aquillas Adams		365,000 00	377,943 90	4,852 58	415,970 68
Alexander Swift & Co.	and Bains	780,000 00	678,446 34	None.	911,969 28
M. F. Merritt		365,000 00	318,735 66	4,850 59	127,669 25
Tomlinson, Hartup & Co	aristia	365,000 00	314,435 36	None.	94,079 14
Donald McKay		376,000 00	21,447 50	15,171 00	22,419 92
T. F. Rowland	Iron double-enders Muscola	275,000 00	71,565 91	None.	91,649 83
Zeno Secor	Iron double-enders Mahongo	275,000 00	84,144 13	None.	32,662 23
Harrison Loring	Iron double-enders Agawam and Pontonac	275,000 00	70,443 16	None.	52,138 24
Paul Curtis	Wood	75,000 00	20,292 96	None.	10,377 00
George W. Lawrence	Wooden double-enders Agawam and Pontonac	150,000 00	50,997 95	None.	5,379 85
Larabee & Allen	Wooden double-enders Inco	75,000 00	95,914 90	None.	7,268 66

\* Not considered as within the provisions of the board.



LETTER  
OF  
THE SECRETARY OF THE TREASURY,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 29th of November, information in relation to the proceeds of captured and abandoned property received by Colonel S. B. Holabird, of the quartermasters' department, while chief quartermaster of the department of the gulf.*

DECEMBER 2, 1867.—Read.

DECEMBER 4, 1867.—Ordered to be printed.

TREASURY DEPARTMENT,  
November 30, 1867.

SIR: In reply to a resolution of the Senate of the United States of the 29th ultimo, calling on me to inform the Senate, at my earliest convenience, whether a sum of \$834,529 34, which appears from House of Representatives Ex. Doc. No. 97, second session thirty-ninth Congress, page 38, to have been received by Colonel S. B. Holabird, assistant quartermaster, chief quartermaster of the department of the gulf, up to February, 1865, as the net proceeds of captured and abandoned property, and to have been used in the quartermasters' department as if belonging to the regular funds of that department, by direction of the major general then commanding the department of the gulf, "has been credited to the account of captured and abandoned property in the treasury of the United States, and is included in the net sum realized from such property, as shown in said report; and whether the said sum of money has been charged to the account of the quartermasters' department; and if not so charged to the quartermasters' department, what legislation is necessary to effect that object"—I have the honor to state that the exhibit referred to, appearing in the Ex. Doc. No. 97, second session thirty-ninth Congress, shows the result of a preliminary examination of Colonel Holabird's accounts by the quartermasters' department; that in the regular routine of official business they have been under examination for about a year last past in the office of the Third Auditor, which examination will probably be completed during the next two months; that whatever amount shall thereupon be ascertained to have accrued from the sale of captured and abandoned property, and to have been used for expenses of the quartermasters' department, will then be transferred by executive action already authorized by law, upon the statement of the Third Auditor, to the fund to which it belongs, and be charged against the quartermasters' department; and that no legislation is necessary to effect this object.

I have the honor to state further that such amount is not included in the total net sum shown by the report referred to to have been thus far realized from captured and abandoned property.

I have the honor to be your obedient servant,

H. McCULLOCH,  
Secretary of the Treasury.

The PRESIDENT OF THE SENATE of the United States.



LETTER  
OF  
THE SECRETARY OF THE TREASURY,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 2d instant, information in relation to the withholding of a part of the salary of judges of the courts of the United States for taxes.*

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DECEMBER 9, 1867.—Read, ordered to lie on the table and be printed.

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TREASURY DEPARTMENT, *December 7, 1867.*

SIR : In compliance with the requirements of Senate resolution of December 2, 1867, "directing the Secretary of the Treasury to inform the Senate whether any part of the salary of any judge of any court of the United States has been withheld by the Treasury Department for taxes; and if so, by what authority the same has been so withheld," I have the honor to transmit herewith a copy of a report from the First Comptroller of the Treasury, which embodies the information sought.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

HON. BENJAMIN F. WADE,  
*President of the United States Senate.*

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TREASURY DEPARTMENT,  
*Comptroller's Office, December 6, 1867.*

SIR : I have the honor to acknowledge the reference to this office of Senate resolution directing the Secretary of the Treasury "to inform the Senate whether any part of the salary of any judge of any court of the United States has been withheld by the Treasury Department for taxes; and if so, by what authority the same has been so withheld."

In answer I have to say, that by the 86th section of the internal revenue act of 1862, it was provided that there should "be levied, collected and paid on all salaries of officers, or payments to persons in the civil, military, naval or other employment or service of the United States, \* \* when exceeding the rate of six hundred dollars per annum, a duty of three per centum on the excess above the said six hundred dollars." The same section required the accounting officers, in adjusting the salary accounts of officers paid at the treasury, "to deduct and withhold the aforesaid duty of three per centum." These provisions, except as to the rate of the duty or tax, and the sum exempt, have continued to be, and are yet, substantially in force.

In compliance with the provisions of the above-recited law, the accounting

officers of the Treasury Department, in directing the payment of salary to judges and other civil officers of the United States, have deducted and withheld the duty charged by law upon such salary at the time it became due and payable.

I am, very respectfully,

R. W. TAYLER,  
*Comptroller.*

Hon. H. McCULLOCH,  
*Secretary of the Treasury.*

## LETTER

FROM

## THE SECRETARY OF THE TREASURY,

COMMUNICATING

*In compliance with a resolution of the Senate of 6th instant, information in relation to the transfer of unexpended balances of appropriations to other accounts, since the 23d of June, 1860.*

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DECEMBER 9, 1867.—Read, ordered to lie on the table, and be printed.

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TREASURY DEPARTMENT,  
December 7, 1867.

SIR: I have the honor to acknowledge the receipt of Senate resolution of the 6th instant, requesting information "whether since the 23d day of June, 1860, any unexpended balances of appropriations for the objects named in the laws making such appropriation, have been used to supply, or on account of, any deficiency of any other item in the same department or office, or have been transferred to any other account, or used for any other purpose, and if so, by what authority."

In answer thereto I have respectfully to state that such transfers have been made at various periods since the 23d day of June, 1860, under the authority of the proviso in the 1st section of the act of March 3, 1809. (2 Stat. p. 535.)

I am, very respectfully,

H. McCULLOCH.  
*Secretary of the Treasury.*

Hon. BENJAMIN F. WADE,  
*President pro tem of the U. S. Senate.*





LETTER  
FROM  
THE ATTORNEY GENERAL,

COMMUNICATING.

*In compliance with a resolution of the Senate of the 5th instant, a list of the assistant district attorneys appointed in the several districts of the United States, and the amount of salary paid them.*

DECEMBER 9, 1867.—Read, ordered to lie on the table and be printed.

ATTORNEY GENERAL'S OFFICE,  
Washington, December 6, 1867.

SIR: In reply to the resolution of the Senate adopted December 5, 1867, "That the Attorney General be instructed to report, for the information of the Senate, how many assistant district attorneys he has appointed in the several districts of the United States, what their names are, and the amount of salary paid them; also whether any persons appointed assistant district attorneys had previously been rejected by the Senate for any office; and if so, the date of such rejection, and of subsequent appointment," I have the honor to submit the following list, viz:

Names.	Districts.	Compensation per annum
H. D. Hyde,	Massachusetts,	\$2,000 00
G. W. Miller,	Northern New York,	2,500 00
Spencer Clinton,	Northern New York,	2,000 00
Oscar Folsom,	Northern New York,	2,000 00
J. A. L. McClure,	Maryland,	1,200 00
W. C. Bunts,	Northern Ohio,	1,500 00
M. L. Perkins,	Western Tennessee,	1,500 00
Manetho Hilton,	Eastern Missouri,	1,500 00

M. L. Perkins was rejected by the Senate as United States attorney for the western district of Tennessee, February 6, 1867. He was employed as assistant United States attorney for that district in the following August. No other, as far as I am informed, has ever been rejected by the Senate for any office.

The uniform rule in the employment of assistant district attorneys is to employ only on the recommendation of the district attorney. In the instance of Mr. Perkins this rule was followed; he was employed upon the recommendation of S. L. Warren, the district attorney. A copy of Mr. Warren's letter is annexed.

I have the honor to be, with great respect,

HENRY STANBERY,  
Attorney General.

Hon. B. F. WADE, *President of the Senate.*

OFFICE OF THE UNITED STATES DISTRICT ATTORNEY,  
DISTRICT OF WEST TENNESSEE,  
*Memphis, July 8, 1867.*

SIR : I have the honor to state, in reply to your letter of the 22d ultimo, that the business of this office is constantly increasing, especially in revenue cases. Cases in the internal revenue department are being reported almost daily.

There is also a very heavy docket for trial at the coming term (September.) It will be impossible for me to prepare myself for the trial of these cases by the time court opens. My predecessor, Mr. Perkins, whom I recommend for the appointment as assistant attorney, is familiar with the practice in this class of cases, and is prepared for the trial of them. Without his assistance, most of the United States cases on the docket would have to be continued. The business in the office is more than one man can attend to. The number of cases in court will appear from the reports sent by my predecessor, Mr. Perkins, to the Commissioner of Internal Revenue and the Solicitor of the Treasury. There is also considerable business before the United States commissioners—prosecutions for violations of the revenue laws and passing counterfeit money.

The fact of my residence being in a distant part of the district, I mentioned in my former letter. I am satisfied that the public interests demand that this appointment should be made, and I therefore again respectfully ask your favorable action in this matter.

Very respectfully, your obedient servant,

S. L. WARREN,  
*U. S. District Attorney, District of West Tennessee.*

Hon. HENRY STANBERRY,  
*Attorney General of the United States, Washington, D. C.*

M E S S A G E  
OF THE  
PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 25th ultimo, information in regard to the formation and the functions of the government of the united states of North Germany.*

---

DECEMBER 12, 1867.—Read, ordered to lie on the table and be printed.

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*To the Senate of the United States :*

I transmit to the Senate, in answer to their resolution of the 25th ultimo, a report from the Secretary of State, with accompanying papers.

ANDREW JOHNSON.

WASHINGTON, *December* 10, 1867.

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DEPARTMENT OF STATE,  
*Washington, December* 10, 1867.

The Secretary of State, to whom was referred the resolution of the Senate of the 25th ultimo, requesting the President to communicate to that body, "if this can be done compatibly with the public interest, any official information which may have been received in regard to the formation and the functions of the government of the united states of North Germany," has the honor to lay before the President the papers specified in the subjoined list.

Respectfully submitted :

WILLAM H. SEWARD.

The PRESIDENT.

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*List of papers.*

Mr. John C. Wright to Mr. Seward, (extract,) February 12, 1867.

Same to same, (extract,) February 25, 1867, with an accompaniment.

Same to same, (extract,) March 18, 1867, with an accompaniment.

Same to same, (extract,) April 22, 1867, with an accompaniment.

Same to same, (extract,) May 2, 1867, with an accompaniment.

Same to same, (extract,) July 1, 1867, with an accompaniment.

Mr. Bancroft to Mr. Seward, September 10, 1867, with an accompaniment.

Same to same, November 1, 1867.

Same to same, November 20, 1867.

Translation of the constitution of the North German Union.

*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 10.]

LEGATION OF THE UNITED STATES,

*Berlin, February 12, 1867.*

SIR: \* \* \* \* \*

The German plenipotentiaries have brought their conferences to a close. The protocol has been signed, and they have returned to their homes, to reassemble at the King's request at the opening of the parliament of the North on the 24th instant.

The "Landtag" was prorogued on the 9th instant by the King in person. His Majesty expressed satisfaction for the aid given the government by the chambers, and hoped that the differences which had existed between them and the crown might not recur. "By appropriating the necessary means for the army and navy you made known your resolution to preserve what has been acquired, to recognize what has been obtained by the policy of my government, supported by the superiority and tried bravery of my army." His Majesty closed by saying: "The draught of a constitution for North Germany having been accepted by all the States participating, leads me to hope that the German people will obtain, upon a basis of united organization such as Germany has hitherto vainly striven for during centuries of conflict, those blessings to which it is called by Providence, through its natural power and march of civilization, as soon as it can maintain peace at home and abroad.

"I shall regard it as the crowning glory of my reign that God has called me to make use of the power of my people, strong in its fidelity, valor, and civilization, for the re-establishment of an enduring unity of the German people and their sovereigns."

I have the honor to be, with great respect, your obedient servant,

JOHN C. WRIGHT.

HON. WILLIAM H. SEWARD,

*Secretary of State, Washington.*

*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 12.]

LEGATION OF THE UNITED STATES,

*Berlin, February 25, 1867.*

SIR: \* \* \* \* \*

Yesterday, the 24th, the king of Prussia in person opened the North German parliament.

The royal family, with the various princes and princesses, together with the ambassadors, ministers, &c., were present.

I herewith enclose you the speech in German delivered by his Majesty. The points in it are about as follows: The King said: "Important events have caused the assembling of delegates, and great hopes depend on your deliberations. For centuries the German race had vainly endeavored to make a starting point toward German unity, but had always failed, and would again if we did not recognize the cause which prevented our forefathers obtaining it.

"Germany was once mighty, great, and honored, because united and led by strong hands. She fell because divided. Robbed of her weight in Europe's council, of her influence, in her own destiny, she became dismembered, and was at once the battle-field of foreign powers.

"The old spirit for unity among us has never ceased to show signs of vitality;

we have longed for the lost blessings, and the history of our age is replete with endeavors to reunite our fatherland. I thank my allies for the readiness with which they have responded to the needs of our common country.

"As inheritor of the Prussian crown, I feel strong in the conviction that the successes of Prussia have been only steps toward the restoration and elevation of German power and honor.

"As soon as the deliberations of parliament shall have progressed sufficiently far to make treaties, &c., we will extend our hands cordially toward our southern brethren. As the tendency of the German spirit is always toward peace and labor, so will the allied German states bear essentially a defensive character. Only for defence, and not for attack, is the German race seeking to be united from the Alps to the sea."

At several points in the speech his Majesty was applauded. It has been warmly extolled by the Prussians and well received by the foreign ministers.

I have the honor to be, with great respect, your obedient servant,

JOHN C. WRIGHT.

Hon. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.*

TRANSLATION, IN SUBSTANCE, OF THE PROCEEDINGS OF THE "REICHSTAG"—  
FEBRUARY, 1867.

*Illustrious, noble, and honorable gentlemen of the Reichstag of the North German Union:*

It is a moment for exultation when I come into your midst. Great events have brought it about; great hopes are connected with it. It is granted to me to meet in union with an assembly which for centuries has not surrounded any German prince, and to give expression to these hopes. For this I thank the providence of God which has guided Germany to purposes and aims which her people hankered after, but did not select nor foresee the means to attain.

Trusting in this guidance, we shall advance the more rapidly in that direction and the more clearly understand the causes which led us and our forefathers astray, through retrospective glances at German history.

Once powerful, great, and honored, while united and directed by strong hands, the German empire sank, not free from blameworthy association, into dismemberment and weakness.

Deprived of importance in the councils of Europe, and of influence over her own destiny, Germany became the chosen battle-ground of foreign powers, on which the blood of her sons was poured forth. Never, however, has the earnest desire of the German people for their lost prosperity been unheard, and the history of our times is full of the exertions again to restore the great past of Germany and of the German nation.

If these efforts have not yet attained their object; if vain efforts have been made to establish a starting point toward German unity, they will again fail if we do not recognize the causes which prevented our forefathers from attaining it.

The old spirit of unity has never ceased to give signs of vitality; we have longed for the lost blessing, and the history of our age is replete with endeavors to reunite the fatherland; we recognize the effective good will with which our allies came to the aid of our common cause and country.

As inheritor of the Prussian crown, I am proud and strong in the conviction that the achievements of Prussia and their consequences will be only sure steps toward the re-establishment and exaltation of German power and German dignity.

When the deliberations of the delegates shall have progressed sufficiently in

the arrangement of public affairs, we shall cordially extend our proffer to our brethren of south Germany, urging them to unite with us. They will, earlier or later, as so many independent governments bound together by common ties of interest of blood and of German association.

I trust in God our combined efforts will put an end to any future divisions among Germans, and that our children will ever regard with gratitude this Reichstag as the founder of German unity, freedom, and power through all time.

Gentlemen, all Germany, even beyond the present limits of our union, patiently awaits the resolutions which shall here be adopted.

May our common action, the dream of centuries, be carried into fulfilment amid the blessings of all ages.

In the name of all united governments—in the name of all Germany—I give you my confidence; help us to carry through this great national task boldly and surely.

The blessing of God to us all who carry out the task and work of the fatherland.

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*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 14.]

LEGATION OF THE UNITED STATES,  
*Berlin, March 18, 1867.*

SIR:       \*               \*               \*               \*               \*               \*

Count Bismarck, in presenting the draught of the constitution to the federal parliament, made a few remarks. I herewith enclose you the same in English. Several hostile speeches have been delivered against the present draught, and Count Bismarck has replied to such attacks in most vigorous language. (See enclosed speeches.) The opposition comes mostly from the Catholic party, and the delegates from Saxony and Hanover.

It is reported that the Prussian premier has said that unless parliament will accept the draught as it is, he will resign. Some contend that he would be only too glad to be extricated from his present dilemma.

I have the honor to be, with great respect, your obedient servant,

JOHN C. WRIGHT.

Hon. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.*

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*Count Bismarck's speech on presenting the draught of the constitution to the federal parliament.*

[Translation.]

GENTLEMEN: In the name of the allied governments, I have the honor of laying before the federal parliament the draught of a federal constitution agreed upon by the governments mentioned. To this draught I add authentic copies of the treaties having reference to the establishment of the confederacy, and also of the minutes of the sittings in which the draught has been discussed by the delegates of the allied governments.

In submitting these to the decision of the high house, I abstain from amplifying upon the speech of the King my gracious master, delivered when opening the session. One point only I should like to call your attention to. In the provisional treaty of alliance, concluded August 18, 1866, there occurs a clause which is to the following effect: "This alliance is to last until the establishment

of new and more permanent federal relations. Unless a new alliance be concluded before that term the present one is to last for a year." This means that the existing federal relations will expire not many months hence. I have no wish to dilate upon what would become of Germany were our work incomplete by August 18 of this year. I hope we shall be spared this predicament. I feel it, however, incumbent upon me to allude to the fact that the representative assemblies of the various states—at any rate, many of them—having reserved to themselves the right to ratify or reject the result of our deliberations, it will be necessary to convene the parliaments of the twenty-two allied states, directly the sittings of the federal parliament are over. I need scarcely tell you how very desirable it is that this ulterior stage of the matter should likewise be completed by the 18th of August. All these are circumstances which ought to lead us to expedite our labors.

Furthermore, it ought to be taken into consideration that the establishment of treaty relations with southern Germany, such as all of us wish for, more or less urgently, will be materially promoted by a rapid consolidation of the north. The wish of the southern states to join their northern countrymen will be the more ardent, the more promptly we advance toward the attainment of our object.

This, gentlemen, should be another incentive for us to come to an early agreement upon such points as might be viewed in a different light by the various political denominations represented in this house. No doubt there is something unfavorable to unity in our national character; otherwise, we should not have lost it, or, at all events, should have recovered it long before this. Looking back to the days of German greatness, the early days of the German empire, we find that no country in Europe was so likely to become strong and united as Germany. From Russia, which was portioned out among the descendants of Rurick to the Visigoths and Arabians of Spain, no European nation, amid the vicissitudes of ages, had so fair a chance of retaining its unity as Germany. Why, then, did we lose it? Why have we, till now, failed in recovering it? To express myself briefly, it seems to me there is an excess of manly and independent feeling in the German character, prompting the individual, as well as the corporation, the province, and the tribe, to rely upon themselves rather than look to the nation to which they belong.

We lack the accommodating spirit which, in other nations, induces individuals as well as tribes to conform themselves to the requirements of the whole, and we have accordingly been prevented from securing the benefits of a strong national commonwealth, so long and so fully possessed by our neighbors. In the present instance, however, the governments have given you a good example. There was not one among them but had to sacrifice some legitimate objections in order that our common purpose might be realized. Let us then follow the precedent given, and prove on our part that Germany, in her history of six hundred years division, has been taught prudence, and that we have taken to heart those teachings inculcated by the abortive attempts to secure unity made at Frankfort and Erfurt. The failure of those attempts plunged Germany into a state of uncertainty and dissatisfaction which lasted no less than sixteen years, and, as was manifest from the very outset, had to be terminated by some such catastrophe as was experienced last year. God decided in our favor.

The German nation now has a right to expect that we shall obviate the recurrence of such a catastrophe, and I am persuaded that you, as well as the allied governments, will do all in your power to fulfil the anticipation of the people.

You ask for responsible ministers to conduct the affairs of the executive; I beg to inquire who is to appoint them? Are the twenty-two governments of the confederacy to agree upon the choice of ministers, or is their nomination to be left to the King of Prussia? The former alternative would be impossible; the latter, the minor potentates will not assent to, while they object to be reduced



to the level of English peers. There remains, then, nothing but to let the governments determine the action of the confederacy by majorities, and intrust the Crown of Prussia with the execution of their votes. This government has no wish to use the power it claims against public freedom. Having engaged in a task so great and difficult as the one in hand, it cannot but rely upon the co-operation of the people, and it is determined to extend liberty to the utmost limits compatible with a powerful state geographically and politically situate as is the northern confederacy. Why does the opposition wish for the right to vote the military supplies annually. What is the practical use of owning a right which, while the general condition of Europe remains what it is, could be exercised only for the purpose of perpetuating our existing military institutions? To close a simile from a branch of the public administration to which I devoted my time before taking up politics, were the maintenance of the army to be made dependent upon annual votes, this would be as sensible as though majorities were to be allowed to decide every year whether the dikes of the Vistula are to be kept in repair or recklessly pierced. Again, if it has been said that the southern states will not join us unless a responsible ministry be instituted at once, I should like to ask the gentlemen taking this view of the matter what they think those southern States are? Why, they are simply their Majesties the Kings of Bavaria and Wurtemberg. Do you really believe their majesties have responsible ministers? I know the reverse to be the case. What we have to settle immediately with the south is the renewal of the Zollverein on a permanent basis, and the establishment of a common authority to legislate in Zollverein matters. Negotiations for this purpose will be taken in hand upon the conclusion of our labors here. As to a political alliance between the two halves of Germany, I trust that, with or without it, the south will always stand by the north as the north will always stand by the south.

Gentlemen, let us not differ on trifles when greater things are at stake.

We cannot now have everything we want, but something may be gained. Assist Germany to vault into the saddle, and trust her to ride alone.

This speech which earned much applause, was followed by another in answer to Herr Von Munchausen, a Hanoverian deputy and adherent of King George. The latter having blamed the annexation, and complained of sundry illegal practices imputed to the Prussian authorities in Hanover, Count Bismarck replied to this effect:

"Though I cannot but respect the feeling of loyalty, devoted to a fallen dynasty, I might have wished the expression of this honorable sentiment had not been coupled with an attack upon the Prussian government. We all esteem the people of Hanover, a race so intimately related to our own, and whose gallant sons have fought on so many fields side by side with ourselves. We also respected the Hanover dynasty, and had no better wish than to remain on amicable terms with it for all time to come. Our views were distinctly communicated to the Hanover government. When the war was about to break out, I informed Count Platen that were he to ally himself to us, the integrity of Hanover would be safe, whatever the issue of the war; but I also thought it my duty to direct his attention to the peril he incurred if pursuing an opposite course. I should consider that Prussian minister a traitor who, if an enemy had arisen in our rear, waiting for an opportunity to stab us in the back, had not crushed that enemy, and rendered a repetition of the deed impossible, if the fortune war placed him in our power. It is perfectly absurd to expect us to act differently. What would have become of Berlin if the Croats had taken it? And now that we have prevented their doing so, are we to reinstate their allies, admitting the plea that no harm was intended. That would be a little too sentimental after a war in which crowns and countries were the stakes. Then as to our treatment of the Hanover army, the convention of Langensalza was clearly meant to be valid only as long as the war lasted; and if Herr Von Munchausen affirm that

Queen Mary is exposed to improper molestation on the part of the Prussian authorities, the fact of her Majesty's remaining in Hanover is, I believe, the best refutation of the charge. Her Majesty's remaining there when her husband has not made his peace with us is certainly strange; but although this government has never alluded to the subject of her leaving, it yet cannot allow her presence to become an occasion of hostile and venomous agitation. It is perfectly true that the Hanover Major Von Trenck was arrested in the presence of the Queen. The major knew that he was suspected of propagating secret proclamations, and that he had been watched for weeks. Either he ought not to have waited on her Majesty while subject to suspicion, or, if her Majesty objects to arrests being made in her presence, she ought not to have stayed where she is. It is furthermore true that a letter from King George was opened by the Prussian authorities. But this was a mistake contrary to the orders of my royal master, and we have apologized for it.

"The Hanover constitution has been abrogated after the conquest, and the Prussian constitution will not come into force before the 1st October. I heartily wish that date were close at hand; but while waiting for it, Hanover is, and must be, governed unconstitutionally. Until then, let the gentlemen beware how they provoke us. They would find us much more than a match for them."

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*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 20.]

LEGATION OF THE UNITED STATES,  
*Berlin, April 22, 1867.*

SIR: On the 17th instant the King, in person, closed the North German parliament. Enclosed will be found the speech in German and a translation of the same. That portion of the address relating to South Germany called forth hearty applause.

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I have the honor to be, with great respect, your obedient servant,  
JOHN C. WRIGHT.

Hon. WILLIAM H. SEWARD,  
*Secretary of State, Washington, D. C.*

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[Translation.]

*Illustrious, noble, and honorable members of the Parliament of the North German Confederation:*

I see you again assembled around me, at the termination of your important labors with a feeling of sincere satisfaction. The hopes I recently expressed from this place, in the name of the allied governments, have since then, through your aid, been brought to fulfilment. With patriotic earnestness you have understood the greatness of your task, and have kept in view our common objects with voluntary self-restraint. For that reason we have succeeded in establishing upon a secure basis a constitution, the development of which we may confidently leave to the future. The federal authority is furnished with the attributes indispensable to, but also sufficient for, the prosperity and the power of the confederation. The individual states, while their future is guaranteed by the totality of the Bund, have retained their freedom of action in all departments wherein variety and development is admissible and salutary. To this popular representation is

secured that co-operation in carrying out the great national objects which corresponds to the spirit of the existing constitutions of the countries and to the necessities of the governments to see their action supported by the agreement of the German people. All of us who have co-operated in carrying out the national task, the allied governments as well as the representatives of the people, have readily made the sacrifice of our views and our wishes, and we were able to do so in the conviction that these sacrifices were made for Germany and that they were worth our union. By this universal readiness, coupled with the conciliation of and victory over opposing views, the guarantee is at the same time gained for that future fruitful development of the confederation, with the conclusion of which, also, the hopes common to us with our brethren in South Germany may have advanced nearer to their fulfilment.

The time has arrived when our German fatherland is able to uphold its peace, its rights, and its dignity by its own collective strength.

The national self-consciousness which has found elevated expression in the parliament has met with a powerful echo from all quarters of Germany. None the less, however, are all the governments and peoples of Germany unanimous that the regained power of the nation has, above all, to uphold its significance by rendering secure the blessings of peace.

Honorable gentlemen, the great work in which we have been thought worthy by Providence to co-operate is approaching its completion. The popular representations of the individual States will not refuse their constitutional recognition to what you have created in community with their governments. The same spirit that has enabled the task to succeed here will also preside over their deliberations. Thus, then, the first parliament of the North German confederation may close its labors with the elevating consciousness that it is accompanied by the thanks of the fatherland, and that the work it has accomplished will, with the help of Providence, be fruitfully developed both in our time and in future generations. May God bestow his blessing on us and our dear fatherland.

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*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 21.]

LEGATION OF THE UNITED STATES,  
*Berlin, May 2, 1867.*

SIR:           \*           \*           \*           \*           \*           \*           \*

The Prussian Chambers were opened on the 29th ultimo by his Majesty in person. Enclosed will be found his speech in German and a translation of the same. The Chambers are only called together to accept the constitution. They will likely pass it *en bloc* and adjourn for three weeks, as an interval of twenty-one days is required before the second reading can take place.

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I have honor to be, with great respect, your obedient servant,

JOHN C. WRIGHT.

Hon. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.*

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[Translation.]

KING WILLIAM'S SPEECH AT THE OPENING OF THE PRUSSIAN CHAMBERS, APRIL 29, 1867.

*Illustrious, noble, and honorable gentlemen of both houses of the Diet:*

A constitution of the North German confederation, by which the united and vigorous development of the nation appears secure, has issued from the de-

liberations of the parliament to which the Prussian people sent its representatives in conformity with the law approved by you. I have summoned you around my throne to submit this constitution to your decision. The task of national unity which the government commenced, with your co-operation, is now to be concluded by your assent.

Upon this basis the protection of federal territory, the care of common rights, and the prosperity of the people will henceforth be guaranteed by the collective populations of northern Germany and their governments in firm community. By the introduction of the federal constitution, the privileges of the representatives of individual states will be subject to unavoidable restrictions in all those departments which will be, in future, subordinate to the general development. But the people itself will not have to forfeit any of the rights it has hitherto possessed. It will merely transfer their maintenance to its representatives in the more extended commonwealth. The consent of the freely elected deputies of the entire people will still be requisite to every law in the North German confederation. Provision has been made by the federal constitution in all respects that those rights, the exercise of which the various representations abandon in favor of the new community of states, shall be transferred in the same extent to the general parliament. The secure foundation of national independence, power, and prosperity shall go hand in hand with the development of German rights and constitutional institutions.

My government entertains the assurance that both houses of the Diet, correctly appreciating the urgent national necessity of speedily settling the task before us, will readily afford their assistance to its completion.

Gentlemen, the newly formed confederation at present only includes the states of North Germany, but an intimate national community will always unite them with the South German states. The firm relations my government concluded for offensive and defensive purposes with those states as early as last autumn, will have to be transferred to the enlarged North German commonwealth by special treaties.

The vivid consciousness of the South German governments and populations of the dangers of German dissension, and the necessity of firm national union which constantly finds more decided expression throughout the whole of Germany, will assist to hasten the solution of that important task.

The united strength of the nation will be entitled and be competent to guarantee to Germany the blessings of peace and effectual protection of her rights and her interests. With this assurance my government will devote itself to averting any interruption to European peace by every means compatible with the honor and the interest of the fatherland.

The German people, however strong its unity, will be able calmly to face the vicissitudes of the future, if you, gentlemen, will aid in completing the great work of national union with that patriotism which has always been displayed in Prussia in serious times.

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*Mr. John C. Wright to Mr. Seward.*

[Extract.]

No. 28.]

LEGATION OF THE UNITED STATES,

*Berlin, July 1, 1867.*

SIR:

The "upper house," on the 20th ultimo, agreed unanimously to the present draught of the constitution. At 3 p. m. on the same the Prussian Landtag was

closed. Chevalier Von der Heydt, minister of finance, read a royal message from the King. I enclose herewith a copy of the speech in German.

The constitution has been promulgated in all the states of the Bund. On and after to-day it will come into force throughout the northern states.

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I have the honor to be, with great respect, your obedient servant,  
JOHN C. WRIGHT.

Hon. WILLIAM H. SEWARD,  
*Secretary of State, Washington.*

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[Translation.]

*Illustrious, noble, and honorable gentlemen of both houses of the Landtag :*

His Majesty the King has devolved upon me the duty to close, in his illustrious name, the sitting of both houses of the Landtag of the kingdom

The government of his Majesty acknowledges with lively thanks that the House of Lords with unanimity, the House of Delegates with a vastly preponderating majority, shared in assent to the constitution of the North German Union.

In the readiness with which the two houses, by relinquishing a portion of their ancient privileges, overcame antagonistic opinions, the government of his Majesty respects a fresh proof of that German good sense and patriotic self-sacrifice which are an inheritance of the Prussian people, and on which Prussia's appeal for Germany is founded.

Through the consent of the Prussian agricultural representation to the building up of the North German Union, every condition preliminary to the establishment of the constitution is attained in Prussia. The recognition of the constitutional union will, without delay and at the same time, ensue in all the united states.

Therewith, the national development of Germany over new grounds is prepared in bringing about the fruits all the energies of patriotism must combine.

The Prussian people, however, should regard the newly constituted Germany with the more satisfaction, because from her came that shapeliness which in Prussia, fosters, in every respect, community of interest between prince and people.

While northern Germany could only form a narrow strip of associated states, the national intercommunion, now secured to the extent of the German territory, as well as the domestic habits of the German people and the Zollverein, indicate the surest grounds for the development of the German unity, at a future day, in harmony with the conditions of the North German Union.

Thanks to the moderation and love of peace of all the powers, it has so fallen out that the pacific development of the European relations has been secured from disturbance; the friendliness and the confidential intercourse between his Majesty the King and the more powerful of the monarchs of neighboring states give lasting assurances of the duration and sure pledge of a peace fraught with blessings.

The wish and the endeavor of his Majesty's government will ever be directed to maintaining the importance and power of the recently established state organizations, and the security of the blessings of peace.

In the name of his Majesty the King, I declare that the sittings of both houses of the Landtag are closed.



*Mr. Bancroft to Mr. Seward.*

No. 4.]

AMERICAN LEGATION,

*Berlin, September 10, 1867.*

SIR: This day has been one of greatest interest in the history of Germany, being marked by the organization of the first imperial Diet assembled under the new constitution of North Germany. The protestant members of the parliament met in advance, for religious service, in the King's chapel. The King, the crown prince and princess, and other members of the royal family, the chiefs of the diplomatic corps, and the great officers of the state and of the army were present, and were all seated on the floor of the chapel. The glitter of official uniforms was as great as I ever saw, there being but one person in plain clothes among all those who were invited to attend. The services were appropriate, and implied the assurance that the movement towards union, as yet incomplete, has proceeded thus far with the favor of Providence.

The Catholic members of the Diet held their services apart.

After these exercises were over the Diet repaired to the White Hall, remaining standing. The King, as he entered and took his seat, was heartily cheered. The proceedings were in conformity to the usage of constitutional governments. The president minister put into the King's hands the speech he was to read, when the King rising from his throne, put on his helmet, and read the speech in a clear and simple manner, without emphasis or display, or any attempt at theatrical effect. At the close of the speech, and as the King withdrew, he was again warmly cheered.

I enclose an official copy of the speech. The points in it to which I would especially direct your attention are the second paragraph, which implies that there is a German nation including the south German provinces, as well as the north; that the measures thus far taken for the commercial union with the German states is but a "step," though an important one, and that the German "feeling" has been an instrument of happy political activity. It also merits the remark that the constitution is described as a work of peace, of which the advantages are to be enjoyed in peace.

I remain, sir, yours sincerely,

GEO. BANCROFT.

HON. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.*

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[Translation.]

*Illustrious, noble, and honored gentlemen of the Reichstag of the North German Union:*

From the resolution of the first Reichstag of the North German Union, I could express the confidence that the popular representatives of the single states of the union would not withhold their constitutional recognition of what had been done by the Reichstag in common with the governments. It is a matter of great satisfaction to me that I was not mistaken in my confidence. The constitution of the North German Union has, in all the states of the Union, in a constitutional manner gone into law. The council of the Union has commenced action, and I am therefore enabled to-day, with joyous confidence in my and my high confederates' behalf, to greet the first Reichstag assembled under the constitution of the Union.

For the regulation of the national relations of the Union to the South German states an important step was achieved immediately upon the promulgation of the constitution of the Union. The German sentiment of the united govern-

ments has created for the Zollverein a new basis, adapted to the altered relations, and has secured its continuance. The convention entered into for that purpose, which has been approved by the council of the Union, will be laid before you.

The estimate of expenses for the Union will form a prominent subject for your consideration. A careful restriction of the expenses to the necessary wants will make it possible to supply almost three-fourths of the former from the independent receipts of the Union, and a cautious estimate of these receipts will guarantee that the contributions from the single states, provided for in the budget, will be amply sufficient to cover the common expenses.

Outlines of laws have been and will be laid before the council of the Union, having for object to make such regulations concerning the different jurisdictions of the law-making power of the Union as the moment requires and the time permits. A law on the right of free emigration is to develop further the common citizenship established by the constitution. A law on the obligation to military service is to make this common citizenship effective to the army, and at the same time to supersede the regulations which are provided in the constitution in part independently and partly depending upon laws to be prescribed by Prussia to govern the obligation of service. A law concerning the passport system is intended to remove all obsolete restraints on communication, and to establish a foundation for an alliance, suited to the national interest, between the Union and the south German states.

The regulations in regard to measures and weights are to equalize the system of weights and measures of the Union, and to regulate it in a manner desirable for the international commerce. The sovereign ownership of the postal system, as an institution of the Union, renders legal provisions regarding the post roads and postage necessary. The establishment of consulates of the Union requires a legal determination of the rights and duties connected with the functions of those officers. The unity of the commercial marine will require a foundation by a law concerning the nationality of merchantmen.

I trust that these laws, which are a primary but decided step toward the accomplishment of the designs of the constitution of the Union, will meet with your concurrence, and with that of the council of the Union.

The conviction that the great problem of the Union can only be solved by readiness on all sides to accommodate the special with the general and national interest, actuated the deliberations which give birth to the constitution of the Union. That conviction has again found expression in the proceedings of the council of the Union, and will, I confidently expect, form the basis of your counsels.

With that predetermination, honored sirs, proceed in the accomplishment of the work begun by the constitution of the Union. It is a work of peace to which you are called, and I trust that, with the blessing of God, the fatherland may enjoy the fruits of your labor in peace.

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*Mr. Bancroft to Mr. Seward.*

No. 17.]

AMERICAN LEGATION,

*Berlin, November 1, 1867.*

SIR: The interest of a residence at Berlin at this time is immeasurably increased by the opportunity of watching the progress of the greatest European revolution of this century. The victories of Napoleon, preceding the peace of Tilsit, can alone be compared with the successful celerity of the short Prussian campaign of 1866. The political system which Napoleon introduced had no support in the nature of things, and wasted away and utterly fell, not merely because it was carried out in Germany by worthless persons, but because it was at war with the ever active forces of a vigorous nationality, and the freedom of

a brave and intelligent people. The present union of German States is the ripened fruit of nineteen generations of continued sufferings and struggles, and is so completely in harmony with natural laws, and so thoroughly the concurrent act of government and people, that it is certain to endure, and is received with the good will, the consent, or the necessary acquiescence of every power in Europe. The result seems the more wonderful the more it is considered. A united state, having a sea-coast extending from Russia to Holland, a mercantile marine superior to that of any European continental power, inferior only to that of Great Britain and to that of the United States, a population of thirty millions, of whom more than two-thirds are Protestants, and all are instructed to read and write, and all trained to the use of arms, rises up in the centre of Europe, equal in culture, courage, and prospective if not immediate influence, to any government on the continent. This state, whose existence is inspired and guaranteed by a strong and ever increasing sentiment of an ancient and indivisible nationality, is further strengthened by permanent treaties of offence and defence and commerce with principalities inhabited by ten millions more, and the treaties are of such a nature that the armies of these ten millions are to be placed in time of war under the lead of the President of the United States of North Germany, and their representatives are to take their seats in the joint parliament which is to prescribe for all one common system of commercial taxation. Controlling the military resources of forty millions of a warlike people, the German Union feels assured of a peaceful neighbor in France; in its compact energy it stands towards the East in an attitude of independence; and is so related to Austria that that empire, if it regards its own welfare, must seek its friendship.

This wonderful result has a special interest for America, because it has sprung from the application of the principles which guided the framers of the Constitution of our United States. The constitution of North Germany corresponds in so many things with ours, that it must have been formed after the closest study of our system, or the same imperfections of government have led the two countries, each for itself, to the discovery and application of similar political principles. As with us, there is here a central government, while the several States, twenty-two in number, retain, each for itself, the powers over internal affairs that have not been delegated. The unity of the people for the whole extent of their territory is established, as by us, by a universal inter-citizenship, giving the rights of a native-born to any citizen of any one of them in any other. The powers conferred on the general government extend, as with us, to naturalization, commerce and navigation, weights and measures, coin, copyrights and patents, army, militia, navy, post office. Some powers are conferred directly, about which our Constitution is less explicit. The German Union has the regulation of the telegraph, of banks and of paper currency, the regulation of railroads for military purposes, and in the interest of general commerce. Should any government prove refractory, the general government has the amplest power of coercion—instantly by the commander-in-chief of the Union in time of war, after consultation with the council in time of peace. Coercion can extend even to the sequestration of the land and of its local government.

As with us, legislation is carried on by a parliament of two houses. The council, as the German senate is called, is composed of forty-three members. Each state names at least one councillor; otherwise, the distribution of numbers follows the precedent of the late German Diet, so that Prussia nominates seventeen. The appointment is made respectively by the executive of the several States. But it is to be remembered that in each state there is a constitutional government, so that the election of councillors is raised above the caprice of the princes of the several states.

The house of representatives, or imperial diet, as it is called, is composed of two hundred and ninety-seven members, distributed on the ratio of one to every



hundred thousand inhabitants, with a further representative to each state for a fraction of fifty thousand or more, and chosen by universal suffrage with the ballot. No advantage is conceded to rank or privilege or wealth, and accordingly the diet just elected, including bankers, large manufacturers, and members of the highest nobility, men of letters, mechanics and laboring men, is a very good representation of the whole country in its present condition. The members of the representative diet are elected for three years. They can be assembled or prorogued by the president of the United States, but they cannot be dissolved without the concurrence of the other branch of the legislature.

Each house, as with us, has the right to propose laws, to amend them, to reject them, or to concur in enacting them; but in practice, most of the bills are prepared and proposed by the smaller body, representing the several states.

The president of the German United States is the King of Prussia. His powers are very much like those of our President, only they are for life, and are hereditary; and a greater intensity of executive authority is conceded, from the necessity of guarding against restless and susceptible neighbors. He is commander-in-chief of all land and naval forces; he declares war, and restores peace; he directs international relations; but treaties that affect legislation have no validity until they receive the approbation of both branches of the legislature. He appoints to offices, and has also the power of removal; only the terms in which the power of removal is granted imply that it is not to be exercised capriciously.

Some regulations differ entirely from ours. No members of the diet may, as such, receive any pay or compensation whatever; but office holders are eligible as representatives, and their pay may continue during the session. There is nothing in the North German constitution which forbids the two houses from sitting separately; but the members of the council may attend, and do attend, the meetings of the diet; and though they cannot vote with the diet, they take part in its deliberations. This has led to an opinion that the council is not a separate branch of the legislature, but the opinion is unfounded. The council has its own meetings, its own deliberations, and its own time and place of voting, and has legislative attributes as surely as the American Senate.

The session of the parliament which has just come to an end has been marked by industry, public spirit, and forbearance. Without wasting time in self-gratulations, or rhetoric, or party feuds, the members have, in about thirty sittings, ratified treaties of the greatest moment, and considered and enacted twelve most important measures of immediate necessity; and it is worth observing, that the legislation of this parliament for all North Germany is, on the whole, more liberal than that of the separate legislatures. But while much has been done, much more remains to be done before the German united states will complete their organization.

I remain, sir, yours sincerely,

GEO. BANCROFT.

Hon. WILLIAM H. SEWARD,

*Secretary of State, &c., &c., &c.*

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*Mr. Bancroft to Mr. Seward.*

No. 21.]

AMERICAN LEGATION,

*Berlin, November 20, 1867.*

SIR: I send to you to-day the laws enacted at the late session of the north German parliament.

The fourth law relates to the nationality of merchant ships and their right to use the union flag. That flag, by the fifty-fifth article of the constitution,

is black, white, and red, and is, from the 1st day of April, 1868, to cover the mercantile marine of North Germany; on and after that day it will be seen in all our considerable ports. By the second article of the law you will perceive that the character of a North German ship is acquired by ownership alone, without any regard to the country in which the ship may have been built. I have already, in my No. 17, called your attention to the fact that this new flag will cover a larger amount of tonnage than the flag of any European nation except Great Britain.

The eighth law relates to free migration, (*Freizugigkeit*.) This law, although at present it is confined to the citizens of the North German states, is not without interest for us. An attempt will be made at the first meeting of the German *Reichs-parliament* to extend this law to the south German states. Should that take place, perhaps we might claim the benefit of it under that clause of our commercial treaty with Prussia which places us on the footing of the most favored nations. The eleventh law, relating to the organization of the consular department, enacts that a *consulmissus* shall not engage in mercantile pursuits.

The collection which I send you contains the bills as presented by the president of the North German united states—that is, the King of Prussia—and the laws as they were finally adopted. The official publication of the laws I have not as yet been able to obtain.

I take this occasion to explain the relation which, according to my understanding of the case, the American minister at Berlin holds to this government. The King of Prussia, as King of Prussia, is the hereditary president of the North German united states, and the president of the collective German customs and commerce union, which last now embraces all Germany, except the Austrian provinces. Some of the European powers regard with dissatisfaction the tendency of Germany towards union, are reluctant to acknowledge that union as far as it has been brought about, and would gladly exercise an adverse influence upon its further progress. The United States of America have always held that every people has an undoubted right to improve its institutions undisturbed by the jealousy of its neighbors. Apart from this general principle, the United States have an especial reason to be pleased with the progress of the German union, because it brings with it an increase of liberty to the German people, and a greater analogy to our own system. I therefore attended officially the opening of the North German parliament, as well as the opening of the Prussian parliament, and intend in like manner to be present officially at the opening of the German customs parliament. In recognizing these several bodies, and assuming to be accredited to the King of Prussia as their head, I act in harmony with the interests of the United States, and, as I feel sure, with the wishes of the government and people. I should be glad to learn from you the views of the President on the points here referred to.

I remain, sir, yours sincerely,

GEO. BANCROFT.

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

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[Translation.]

#### CONSTITUTION OF THE NORTH GERMAN UNION.

His Majesty the King of Prussia, his Majesty the King of Saxony, his Royal Highness the Grand Duke of Mecklenburg-Schwerin, his Royal Highness the Grand Duke of Saxe-Weimar-Eisenach, his Royal Highness the Grand Duke of Mecklenburg-Strelitz, his Royal Highness the Grand Duke of Oldenburg, his Highness the Duke of Brunswick and Luneberg, his Highness the Duke of

Saxe-Meiningen and Hildburghausen, his Highness the Duke of Saxe-Altenburg, his Highness the Duke of Saxe-Coburg and Gotha, his Highness the Duke of Anhalt, his Serene Highness the Prince of Schwarzburg-Rudolstadt, his Serene Highness the Prince of Schwarzburg-Sondershausen, his Serene Highness the Prince of Waldeck and Pyrmont, her Serene Highness the Princess Reuss, elder line, his Serene Highness the Prince Reuss, younger line, his Serene Highness the Prince of Schaumburg-Lippe, his Serene Highness the Prince of Lippe, the senate of the free Hanse town of Lubeck, the senate of the free Hanse town of Bremen, the senate of the free Hanse town of Hamburg, each for the whole of their territory, and his Royal Highness the Grand Duke of Hesse and Rhine, for that portion of the grand duchy of Hesse north of the Main, unite in perpetual union for the protection of the territory of the Union and the lawful rights therein existing, and for the welfare of the German people.

This Union shall bear the name of the North German Union, and shall have the following constitution :

#### I.—EXTENT OF TERRITORY OF THE UNION.

ARTICLE 1. The Union shall consist of the states of Prussia, with Lauenburg, Saxony, Mecklenburg-Schwerin, Saxe-Weimar, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Sondershausen, Waldeck, Reuss, elder line, Reuss, younger line, Schaumburg-Lippe, Lippe, Lubeck, Bremen, Hamburg, and of the portion of the grand duchy of Hesse north of the Main.

#### II.—LEGISLATION.

ART. 2. Within this territory the Union has the right of legislation in accordance with the provisions of this constitution, and with the understanding that the state laws are to be subordinate to the Union laws. The Union laws derive their effective force from promulgation on the part of the Union, and this is done by publication in the Union Law Gazette. When no time is specified in the law for it to take effect, it shall go into force on the fourteenth day after its publication in the Union Law Gazette in Berlin.

ART. 3. A common right of citizenship prevails in the Union, to the effect that citizens of each state shall be treated as natives in all the others, and therefore shall be allowed to reside, to trade, to hold public office, to purchase real estate, to exercise the rights of citizenship, and to enjoy all other civil rights on the same conditions as natives, and shall be treated in the same way in law suits and claims.

No citizen of the Union shall be restrained in the exercise of these rights by any magistrate of his own state, nor of any other state of the Union.

Regulations in reference to the care of the poor, and the admission of members to townships, are not affected by the first clause of the preceding paragraph.

All agreements between states to receive individuals sent back to the state they belong to, to care for the sick and bury the dead belonging to another state, shall remain in force till further legislation is had on those subjects.

Laws shall be enacted by the Union congress with regard to the performance of military service hitherto required from persons by their respective states. All citizens of the Union shall have equal rights to protection abroad.

ART. 4. The following affairs are subject to the regulation of the Union and its legislature :

1. The regulations on free emigration from one state to another, choice and conditions of domicil and settlement, citizenship, passports, surveillance of strangers and over trades, including insurance, inasmuch as these are matters not settled by Article 3 of this constitution, as well as colonization and emigration to foreign countries.

2. Tariff and trade regulations, and taxes for support and use of the Union.
3. The regulation of measures, weights, and coins, with the establishment of the principles for the issue of funded and unfunded paper money.
4. General regulations for banks.
5. Patent rights.
6. Copy-rights.
7. General protection for German commerce in foreign countries, for German navigation and flag at sea, and the establishment of a general consular representation which is to be provided for by the Union.
8. Railways and the construction of roads and canals for military purposes and for general intercourse.
9. Rafting and boating on inland waters under the jurisdiction of different states, and their condition and repairs, as well as river in-toll and charges for the use of streams.
10. Mails and telegraphs.
11. Regulations for the reciprocal execution of judgments in civil suits and compliance with requisitions.
12. For the authentication of public documents.
13. A general code for contracts, penalties, trade, bills of exchange, and judicial proceedings.
14. Army and navy regulations of the Union.
15. Regulations of the medical and veterinary police.

ART. 5. Laws for the Union shall be enacted by the Union council, and the Reichstag. An agreement of the majority of both houses is necessary and sufficient for the passage of a law.

When there is a tie vote in the Union council on military or naval bills, the president's vote shall decide it, if it favors existing regulations.

### III.—THE UNION COUNCIL.

ART 6. The Union council shall be composed of delegates from the different states of the Union, among which the votes shall be distributed in accordance with the regulations for the plenum of the late German Diet, so that Prussia, with the former votes of Hanover, Kurhesse, Holstein, Nassau, and Franckfort, shall have 17 votes; Sascony, 11; Hesse, 1; Mecklenburg-Schwerin, 2; Saxe-Weimar, 1; Mecklenburg-Strelitz, 1; Oldenburg, 1; Brunswick, 2; Saxe-Coburg-Gotha, 1; Saxe-Meiningen, 1; Saxe-Altenburg, 1; Anhalt, 1; Schwarzburg-Rudolstadt, 1; Schwarz-Sondershausen, 1; Waldeck, 1; Reuss, elder line, 1; Reuss, younger line, 1; Schaumburg-Lippe, 1; Lippe, 1; Lubeck, 1; Bremen, 1; Hamburg, 1; total, 43.

ART. 7. Each state of the Union can send as many delegates to the council as it is entitled to votes, but the same state cannot vote different ways; all the votes must be given in the same way. States who send no delegates, or such as have not received full instructions, shall have no vote on the bill depending.

Each member has a right to draw up and introduce a bill, and it is the president's duty to submit it for consideration. Bills are passed by a simple majority of votes. In case of a tie, the president's vote decides.

ART. 8. The following committees shall be formed of the members of the council:

1 for the army and forts; 2 for the naval and merchant marines; 3 for tariff and taxes; 4 for trade and commerce; 5 for railways, mails, and telegraphs; 6 for the judiciary affairs; 7 for receipts, accounts, and disbursements.

Each committee shall consist of delegates of two states at least, besides its president, and each state shall have but one vote. Members of committees 1 and 2 shall be appointed by the commander-in-chief of the Union, and the members of the other committees shall be elected by the council. These committees

at each session of the council shall be appointed yearly, and old members may be re-elected. Each committee shall be provided with the officials it may need for its business.

ART. 9. Every member of the council has the right to appear and be heard in the Reichstag to express the views of his government, even though they have not been adopted by the majority of the council. No one can be a member of the council and Reichstag at the same time.

ART. 10. It is the president's duty to grant the customary diplomatic protection to each member.

#### IV.—THE PRESIDENCY.

ART. 11. The presidency of the Union belongs to the crown of Prussia. The crown of Prussia is therefore entitled to represent the Union as a nation, and to declare war and conclude peace, in the name of the Union, to form alliances and make other treaties with foreign states, accredit ministers and receive them. Treaties with foreign countries relating to affairs which, according to article 4, are subject to the legislature of the Union, must be voted on by the council and ratified by the Reichstag.

ART. 12. It is the president's duty to call the council and Reichstag together, to open them, adjourn them and close them.

ART. 13. The council and Reichstag shall meet yearly, and the council may be assembled for the preparation of business without the Reichstag, but the Reichstag cannot convene without the council.

ART. 14. The council must be assembled whenever one-third of its members desire it.

ART. 15. The chancellor, appointed by the president, shall preside over the council and direct its proceedings. He cannot substitute any member of the council to preside in his place by a written declaration.

ART. 16. It is the duty of the president to lay the bills resolved upon by the council before the Reichstag, where they will be seconded by members of the council or by special committees thereof.

ART. 17. The president shall have the laws enrolled and promulgated, and shall see to their execution. The orders and resolutions of the president shall be issued in the name of the Union, and for their validity require the signature of the chancellor, who thereby becomes responsible for them.

ART. 18. Officials of the Union shall be appointed and sworn in by the president, and he may order their dismissal when necessary.

ART. 19. When members of the Union do not fulfil their constitutional duties they may be held to it by way of execution. This execution is (a) to be ordered and enforced by the commander-in-chief of the Union, when military service is required in times of danger; (b) in all other cases it is to be ordered by the council and executed by the commander-in-chief of the Union. This execution may extend to the sequestration of the offender's land and the privation of his governing power. In the case (a) the council is to be immediately informed of the order for the execution, with a statement of the reasons for it.

#### V.—THE REICHSTAG.

ART. 20. The Reichstag is formed by a general and direct election with secret ballot; and until an election law is passed, the election shall be regulated by the law according to which the first Reichstag of the North German Union has been constituted.

ART. 21. Officials require no leave of absence to enter the Reichstag. If a member of the Reichstag accepts a salaried office of the Union or any of its states, or if he accepts an office with which a higher rank or salary is connected, he loses his seat and vote in the Reichstag, and cannot resume his place only by a re-election.



ART. 22. The debates of the Reichstag are public. Veridical reports respecting the proceedings in open session of the Reichstag are free from responsibility.

ART. 23. The Reichstag has the right to propose laws within the jurisdiction of the Union, and to hand over all petitions addressed to it, to the council or to the chancellor of the council, respectively.

ART. 24. The legislative term of the Reichstag is three years. For its dissolution within that time, a resolution of the council, with the consent of its president, is necessary.

ART. 25. In case the Reichstag is prorogued, a new election must take place within sixty days, and its members must assemble within ninety days after the prorogation.

ART. 26. Without the consent of the Reichstag no adjournment can take place for a longer time than thirty days, and a second adjournment cannot take place during the same session.

ART. 27. The Reichstag decides the qualifications of its members. It regulates its order of business and discipline, elects its president, vice-president, and secretaries.

ART. 28. The Reichstag decides by an absolute majority of votes. For the validity of this decision the presence of the majority of the legal number of members is required.

ART. 29. The members of the Reichstag are representatives of the whole people, and are not bound by orders or instructions from their constituents.

ART. 30. No member of the Reichstag shall at any time be proceeded against judicially or extrajudicially for a vote or expressions uttered in the exercise of his official duty, nor shall he thereafter be held responsible for them in any manner outside of the assembly.

ART. 31. Without the consent of the Reichstag no member can be arrested and brought before a court of justice for trial during the session, for any act against the penal code, unless he be apprehended in the act, or in the course of the next day,

A like consent is necessary in case of arrest for debt.

At the instance of the Reichstag every penal process and every imprisonment in criminal or civil cases against one of its members may be suspended as long as the session lasts.

ART. 32. The members of the Reichstag shall, as such; not be entitled to any salary or compensation.

## VI.—TARIFF AND TRADE.

ART. 33. The Union forms a single tariff and trade district, surrounded by one customs boundary. Those parts of the Union territory which are not fit to be included on account of their location are excluded from the customs boundary.

All articles free of duty in one state can be brought into any other state, and only be subject to a tax equal to the internal duty which similar produce of that state pays.

ART. 34. The Hanse towns of Lubeck, Bremen, and Hamburg, with an extent of their own or the surrounding territory sufficient therefor, shall remain free ports, outside of the common customs boundary, till they petition to be included.

ART. 35. The Union has exclusive legislation on tolls and customs, on taxation of the consumption of domestic sugar, brandy, salt, beer, and tobacco, as well as on the regulations of the boards of taxation for the security of the common customs boundary.

ART. 36. The administration and collection of the taxes and consumption duties within their territory is left to the states, so far as they have hitherto exercised them.

The president superintends the execution of the legal regulations by federal officials, whom he appoints at the boards for tolls and taxes, and at the directory for customs of the different states, upon hearing the custom committee of the Union councils.

ART. 37. The council decides, first, upon all bills concerning matters named in article 35, including commercial and navigation treaties, which are to be laid before the Reichstag, or which have already been accepted thereby; second, upon regulations and arrangements for the execution of the general laws, (Article 35;) third, on defects which appear in their execution; fourth, on the auditing of the accounts (Article 37,) of the general treasury that are laid before it by its accountant.

Every proposal on subjects from 1 to 3, made by a state, or on subjects in 3 made by a controlling officer to the council, is subject to a general decision. In case of a tie, the president's vote decides on matters named under 1 and 2, when it favors existing laws and regulations; in all other cases the majority decides, as explained in Article 6 of this constitution.

ART. 38. The returns of duties and the consumption tax mentioned in Article 35 go into the general treasury. These returns consist of all the taxes and the consumption duties collected, after deducting, first, tax compensations and remissions due according to law or general administrative orders; second, collection and administration expenses of (a) duties and imposts on home-made sugar, so far as these costs can by agreement between the members of the German tariff and trade union be charged to the Union government; (b) of the tax on home-made salt, as well as on the tax on imported salt as soon as such taxes will be decreed after abolition of the salt monopoly, and the amount of cost for the superintendence of salt works and collection of duties thereon; (c) of other taxes amounting to 15 per cent. of their returns.

Those districts outside the tax customs boundary pay an average for the general expenses of the Union administration.

ART. 39. The quarterly extracts and annual definitive reports of the state collectors of customs revenues, after being examined and reduced to a summary by the directory in each state, shall be sent to the committee of the federal council on expenditures. This committee, by aid of these reports, determines every three months the amount due from each state to the federal treasury, informs the council and the several states of it, and lays the annual estimate before the council for its ratification with such remarks as it may deem proper to make.

ART. 40. The resolutions in the toll union treaty of the 16th of May, 1865, in the treaty on equalizing internal taxes on produce, of the 28th of June, 1864, in the treaty about trade in wine and tobacco of the same date, and in article 2 of the supplementary toll treaty of the 11th of June, 1864, and the Thuringian customs association, remain in force in the states between which they have been concluded, provided they are not changed by the provisions of the present constitution nor by the method indicated in Article 37.

With these restrictions, the resolutions of the toll union treaty of the 16th of May, 1865, are binding on the federal states and districts which do not now belong to the German tax and commerce union.

## VII.—RAILROADS.

ART. 41. Railroads considered necessary for the protection of the Union territory or the promotion of common intercourse can, by federal law, be built at the expense of the Union, or let out to private contractors with the right of expropriation, without prejudice to the eminent domain, even against the will of the state, through whose district the road is to run.

All present railroad companies must allow the connection of new roads with their own, at the expense of the former.

Existing regulations giving to directors of roads already built the right of protest against the construction of parallel or opposition roads are hereby repealed throughout the Union, without prejudice to rights already acquired, nor can such right of protest be allowed in any future concession.

ART. 42. It is the duty of the state governments to manage the roads in the Union as a single network for the benefit of general intercourse, and to have all new roads laid out and managed by similar regulations.

ART. 43. For this purpose regulations for their management shall be agreed upon as soon as possible, and general road police regulations shall be introduced. The Union shall see that the railroad companies keep their respective roads always in a condition for safe travel, and provided with the running gear required by the exigencies of intercourse.

ART. 44. The railroad companies are obliged to furnish the necessary connecting through trains of proper speed, as well as to furnish the necessary freight trains, and to carry passengers and goods through, allowing the cars of one company to pass on the road of another at the usual commutation.

ART. 45. The Union shall regulate the rates and establish regulations, first, for uniform management of the railroads in the Union, so that the lowest and uniform rate, and especially for the carriage of coal, wood, ores, stone, salt, iron and manures and similar articles; on long distances, a reduced rate shall be fixed in favor of agriculture and industry, if possible the one penny rate.

ART. 46. In times of scarcity, especially when the necessaries of life are high, the railroads shall carry grain, flour, lentils, beans, peas, and potatoes, at a properly reduced price to be fixed by the president of the Union on the proposal of the committee of the council; but the price shall not be lower than the charges for transport of raw material on the respective roads.

ART. 47. All the railroad authorities must positively obey the federal demands for the use of their roads for the purpose of protecting the Union. Men and ammunition are to be transported at uniformly reduced rates.

#### VIII.—MAILS AND TELEGRAPHS.

ART. 48. Mails and telegraphs shall be established and managed as a simple state institution for intercourse within the territory of the North German Union. The federal laws, mentioned in Article 4, for mails and telegraphs do not extend to those objects that are left to be regulated according to the principles of administration adopted in the Prussian mail and telegraph service.

ART. 49. The mail and telegraph rates shall be the same throughout the Union. Expenses shall be paid out of general receipts. The balance goes into the federal treasury; (Sec. XII.)

ART. 50. The chief management of the mails and telegraphs belongs to the president of the Union. It is his right and duty to see that there is unity in the organization, service, and qualification of officials.

It is the duty of the president to see that rules and general administrative regulations shall be issued, as well as that relations be established and maintained between the domestic and other German or foreign mail and telegraph boards. All mail and telegraph officials are bound to obey the orders of the president. This duty of obedience is embraced in the oath of office.

The appointment of the necessary chief officials at the boards of mails and telegraphs in the different districts, such as directors, counsel, chief inspectors; also the appointment of post and telegraph officials serving as agents for the inspection to the chief officials, such as inspectors, controllers, pertains throughout the Union to the office of the president, who shall administer the oath of office to them.

Timely communication of these appointments will be made to the separate states, so far as they are concerned, for their ratification and promulgation by them. All other officials at the boards of post and telegraph, as well as all



officials for the local and technical service, are appointed by the state governments; where states have no boards for mails and telegraphs, the provisions of special treaties shall take effect.

ART. 51. For the maintenance of unity of administration in post and telegraph affairs in the Hansetowns, the administration and service of the different postal and telegraph institutions which exist therein shall be concentrated by a special order of the president, who will inform the senates, so they may express their wishes in regard to the subject.

This concentration is to take place immediately among the German postal institutions in those towns. With those foreign governments which possess and exercise postal privileges in the Hansetown's governments, agreements shall be made for the purposed concentration.

ART. 52. In the assignment of the balance from the postal department for government expenses, (Art. 49,) the following proceedings shall be observed during the time hereafter mentioned, in order to apportion the revenues of the different states' posts, which hitherto have been so unequal.

Out of the postal revenues in each postal district for five years, from 1861 to 1865, a general average of the annual revenue is to be made, and the part of the whole Union postal revenue which each district makes up is to be expressed by percentage. According to this percentage the postal revenues of the Union shall be during the next eight years accredited to the account of the several states, and deducted from the amount of their liabilities to the Union. This distinction ceases after eight years, and the balance is deposited into the general treasury, according to Article 49.

During the eight years the quota of the postal revenue for the Hansetowns shall be placed at the disposal of the president to pay for the establishment of normal post offices in the different Hansetowns.

#### IX.—THE NAVY AND MERCHANT SHIPPING.

ART. 53. The entire navy of the Union is under the command of Prussia. Its organization belongs to the King of Prussia, who appoints its officers and officials, who take the oath of allegiance to him. Kiel and Jade are naval seaports. The federal treasury is to pay the expenses for construction and maintenance of the navy and of the institutions connected therewith.

All seafaring population, as well as naval machinists and operatives, are exempt from land service, but are bound to naval duty. The demand for seamen shall be supplied from the states in proportion to their seafaring population, and the quota which each state, according to this, supplies shall be deducted from its land quota.

ART. 54. The merchant ships of all the states shall form a single commercial navy. The general government regulates the method of measuring ships, furnishing papers and certificates for all merchant vessels, and regulates the conditions upon which a sea-going vessel may be navigated. The vessels of the several states shall be admitted and be treated alike in all ports on all natural and artificial water-courses of the Union.

Port charges on ships or cargoes in all seaports shall not be more than enough to keep the harbors in repair.

Charges on navigation of natural water-courses shall be levied only for the use of such works as may be requisite for the facilitating of navigation. These charges, as well as the charges for navigation on artificial water-courses which belong to the government, shall not exceed the expenses for the maintaining and repairing of the works.

The same regulations are applicable to rafting on all navigable streams.

The government of the Union alone is authorized to levy higher charges on cargoes, than are levied on shipping of the federal states.

ART. 55. The national flag is black, white, and red.

## X.—CONSULAR SYSTEM.

ART. 56. The North German consular system is under the supervision of the president, who shall appoint consuls upon the report of the committee of the council for trade and commerce. No new state's consul shall be appointed within the districts of the federal consuls. The federal consuls shall act for the state consul, whenever the state is not represented within his district. The present state consulships shall be abolished so soon as the organization of the Union consular system shall be so far accomplished that the council acknowledges that the interests of each state can be provided for by the Union consuls.

## XI.—THE MILITARY SYSTEM.

ART. 57. Every North German is subject to military duty, and is not allowed to furnish a substitute.

ART. 58. The expenses and burdens of the military system are to be borne equally by all the states, and their subjects, so that no privileges and overburdening of any state or classes are admissible. Whenever an equal distribution of burdens is not feasible, *in natura*, without damage to the public welfare, a compensation shall be made by legislation, according to the principles of justice.

ART. 59. Every able-bodied North German is to serve seven years in the army, from the completion of his 20th, to the beginning of his 28th year. The first three years he has to serve in the field, the next four in the reserves, and the last five in the militia. In those states in which the term of military service exceeded twelve years, a reduction can take place only as far as it is possible without impairing the preparation for war of the Union army.

The reserves are allowed to immigrate on the same conditions as the former militia.

ART. 60. The Union standing army in time of peace shall be composed of one per cent. of the population, by the census of 1867, up to the 31st of December, 1871, and shall be provided for proportionally by the different states; after that period, it shall be regulated by proper legislation.

ART. 61. Immediately after the publication of this constitution the military laws of Prussia shall be enforced throughout the Union—not only the laws, but the regulations for their administration, explanation, or completion; the instructions and rescripts, the military penal code of the 3d April, 1845, and the military code of judicial proceedings of the same date; the orders of the laws of honor of the 20th July, 1843; the decrees for draft, service, discipline, billeting, care for the men, compensation for damage of fields and crops, and fitting out for war and peace, shall have full effect.

Military regulations in respect of attendance on religious services are excepted.

After the federal military organization has gone into effect, the president will lay a bill for a general military law before the Reichstag and council for legislation according to the constitution.

ART. 62. For defraying the expenses of the federal army and its equipment up to the 31st December, 1871, 225 thalers annually for each man, reckoning on a peace footing according to article 60, shall be placed at the disposal of the commander-in-chief. (See section XII.)

The payment of this appropriation begins with the first month after the publication of this constitution.

After the 21st December, 1871, these sums are to be paid into the federal treasury by the different individual states of the Union.

The calculation of these contributions shall be based on the peace footing named in Article 60, until this peace footing shall be modified by law.

The distribution of these sums for the maintenance of the army shall be regulated by the general budget. In fixing the budget for military expenses, the

organization of the army according to this constitution shall serve as a general basis.

ART. 63. The aggregate land forces of the Union shall form a single army, which, in war and in peace, is placed under the command of his Majesty the King of Prussia, as commander-in-chief of the Union.

The several regiments shall bear continuous numbers through the entire Union army. For uniform the colors and patterns of the royal Prussian army are adopted, and it is devolved upon the commanders of the respective contingents to define the exterior distinctions, such as cockades, &c.

The commander-in-chief has charge and authority to take care that all classes of troops in the army of the Union shall be in full number, and consist of able-bodied men, and that the unity in organization and formation, in equipment and command, in the discipline of the soldiery, as well as in the qualifications of the officers, shall be maintained.

In this behoof the commander-in-chief is entitled to satisfy himself, by inspections, of the condition of every contingent, and to order the correction of any defect that may be discovered. The commander-in-chief determines the strength of the standing army, the rank and file, and the division and classification of the contingents of the federal army, as well as the organization of the militia, and has authority within the Union territory to establish garrisons, as well as to order the preparation for war, of any part of the federal army.

For the purpose of attaining the needful unity in the administration, maintenance, armament, and equipment of all troops belonging to the army of the Union, the future regulations for the Prussian army are to be communicated for observance to the commanders of the other contingents of the Union army by the committee for the army and forts named in Article 8, No. 1.

ART. 64. All troops of the Union are bound to follow out unconditionally the orders of the commander-in-chief. This obligation is embraced in the military oaths. The commander-in-chief of any contingent, as well as all officers who are in command of more troops than a contingent, and all commanders of fortresses, are appointed by the commander-in-chief. The officers appointed by him render to him the military oath. The appointments of generals, or officers of a contingent of the Union army performing the duties of generals, are to be in every case subject to the decision of the commander-in-chief of the Union.

The commander-in-chief of the Union is authorized, for the purpose of transfer, be it with or without promotion, to choose officers from any contingent of the Union army for such commands in any part of the army as he has the right to dispose of.

ART. 65. The right to erect fortresses within the limits of the Union is vested in the commander-in-chief, who will make application for the necessary means, as far as they have not been granted by the regular budget, in accordance with section 12.

ART. 66. Except where there is a special convention to the contrary, the officers of each contingent will be appointed by the respective sovereign or senate, with the restriction contained in Article 64. They are commanders-in-chief of the troops belonging to their territory, and are entitled to all the honors connected with that position. They have especially the right of inspection at any time, and are entitled, aside from the usual reports and information of transpiring changes, to communication of all promotions and appointments that affect their corps, in order that they may be properly published within their state.

They have likewise the right to employ, for purposes of police, not only their own troops, but to call on any troops of the army of the Union which may be for the time within their territory.

ART. 67. Any economy which may be effected in the military expenses shall under no circumstances redound to the advantage of a state government, but will always flow into the treasury of the Union.

ART. 68. It is in the power of the commander in-chief, whenever the public safety within the limits of the Union is threatened, to declare martial law in any part of the same. Until the passing of a general law prescribing the grounds for such a declaration, the form of its promulgation, and its effects, the provisions of the Prussian law of June 4, 1851, (Statutes for 1851, page 451 f. f.,) will serve as a guide in the premises.

## XII—THE FINANCES OF THE UNION.

ART. 69. All receipts and expenditures of the Union are to be estimated for every year, and to be placed on the general appropriation bill of the Union. The appropriations will be regulated by a law at the beginning of every fiscal year, on the following principles:

ART. 70. For the defraying of all common expenditures shall be employed, in the first place, any surplus remaining over from former years, and all the common receipts yielded by the customs, and all the common excise of consumption, and the post office and telegraph department. The sum still required after these sources shall have been expended shall be raised, as long as Union taxes are not levied, by contribution of the different states of the Union in proportion to the number of their inhabitants, which contributions shall be apportioned by the presidency to the amount required by the budget.

ART. 71. The appropriation for the common expenditures will generally be made for one year, but may be granted for a longer period in special cases. During the provisional term adopted in Article 60 the detailed bill for the expenditures of the army of the Union is to be rendered only to the federal council and the Reichstag for their information.

ART. 72. It shall be the duty of the presidency to render to the federal council and Reichstag a yearly account of the appropriation of the Union for settlement.

ART. 73. Under circumstances of extraordinary necessity the Union may, by legislative action of the Union, be burdened with the contraction of a loan, or the assumption of a guarantee.

## XIII.—SETTLING OF DISPUTES AND PENALTIES.

ART. 74. Any attempt against the existence, the integrity, the safety or the constitution of the North German Union, or any affront to the federal council, the Reichstag, or to any member of the federal council or Reichstag, or to any authority or public functionary of the Union, while in the exercise of their functions as such, or any libel directed against them in respect to their office, by word of mouth, writing, printing, sign pictures, or other representation, shall be tried and punished in the respective states of the Union, according to the laws then there existing, or hereafter to be prescribed, by which a similar offence against the separate state, its constitution, its chambers or estates, or the members of the chambers or estates, or against its authors or officers, would be judged.

ART. 75. For the trial of such of the offences against the North German Union enumerated in Article 74, which if committed against any particular state, would be accounted as high treason or treason, the original as well as the appellate jurisdiction is vested in the common supreme appellate tribunal of the three free and Hanseatic cities at Lubeck.

The details on the jurisdiction and the proceedings of the supreme appellate tribunal will be indicated by legislation of the Union. Until the passage of a law to that effect, the laws, jurisdiction of the courts in the different states, and their proceedings, remain in force.

ART. 76. Controversies between different states of the Union, when not affecting rights of a private nature, and as such to be decided by the competent courts, shall be settled by the federal council on the application of one of the parties.

Constitutional controversies between such states in whose constitution no authority is provided for the decision of these controversies will, on application of one of the parties, be settled by the federal council by amicable suggestion; or if that should not suffice, by legislative proceedings.

ART. 77. Whenever it shall happen in any state of the Union that courts refuse to discharge their duty, and adequate remedy cannot be legally obtained, it shall be the duty of the federal council to receive complaints, sustained by proofs, concerning the denial or impediment of the administration of justice, and to order the administration of justice by that state which has given cause to the complaint. The cause of complaint, however, is to be judged according to the constitution and laws of that state.

#### XIV.—GENERAL RULES.

ART. 78. Amendments to the constitution are to be effected by legislation; they require, however, in the federal council, the consent of a majority of two-thirds of the votes of the members present.

#### XV.—RELATIVE TO THE SOUTH GERMAN STATES.

ART. 79 The relations of the union towards the South German States, will be regulated immediately after the adoption of the constitution of the North German Union by separate treaties to be submitted for their approval to the Reichstag.

The admission of the South German States or any of them may take place by legislative action of the confederation upon the suggestion of the presidency.

This constitution has been published 25th June, 1867, and has gone into force on 1st July of the same year.

LETTER  
OF  
THE SECRETARY OF THE INTERIOR,  
COMMUNICATING,

*In compliance with a resolution of the Senate of the 10th instant, information in relation to the Union Pacific Railroad Company and its branches, and the Central Pacific Railroad Company.*

DECEMBER 12, 1867.—Read, referred to the Committee on the Pacific Railroad, and ordered to be printed.

DEPARTMENT OF THE INTERIOR,  
Washington, D. C., December 11, 1867.

SIR : I have the honor to acknowledge the receipt of the following Senate resolution :

“ *Resolved*, That the Secretary of the Interior be requested to furnish to the Senate a statement setting forth, first, the amount of the United States bonds issued to the Union Pacific Railroad Company and its branches, including the Central Pacific Railroad Company, under the act of 1862 and the amendments thereto, the dates at which the same issued, the company to which they were delivered, and the sections of road in respect to which they were granted ; second, an account between the United States and said company and each of the said branches, including the Central Pacific Company, setting forth the amount of interest paid by the United States on such bonds, and the amount of interest repaid to the United States by said company and each of the said branches, including the Central Pacific Company, and the mode of payment, whether in cash or the transmission of despatches and transportation of the mail and supplies, as provided by the charter ; third, the length of line of each road already completed and accepted, designating the locality.”

The records of this department do not furnish the requested information upon any point except that embraced in the concluding inquiry. In answer thereto I respectfully state :

First. That the road of the Union Pacific Railroad Company has been completed and accepted for 510 miles, commencing at the initial point on the Missouri river, near Omaha, Nebraska, and terminating at the 510th mile-post.

Second. The Union Pacific railway, eastern division, has been completed and accepted for 305 miles, commencing at the initial point on the boundary line dividing the States of Missouri and Kansas, and terminating at the 305th mile-post west of said initial point.

Third. The Central Branch Union Pacific railroad has been completed and accepted for 80 miles. It begins at Atchison, Kansas, and extends west therefrom 80 miles.

Fourth. The road of the Central Pacific Railroad Company of California



has been completed and accepted for 118 miles. Of this distance, 94 miles lie between Sacramento, California, and the 94th mile-post; the remaining 24 miles lie between the 114th and the 138th mile-post.

Fifth. The Western Pacific railroad has been completed and accepted for 20 miles, commencing at the initial point at San José, California, and extending northwardly therefrom for that distance.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING, *Secretary.*

Hon. B. F. WADE,

*President pro tempore of the Senate of the United States.*

LETTER  
OF  
THE SECRETARY OF WAR AD INTERIM,  
COMMUNICATING,

*In compliance with a resolution of the Senate of December 4, 1867, information relative to the reduction of the military reservation of Point San José, California.*

DECEMBER 12, 1867.—Read, ordered to lie on the table and be printed.

WAR DEPARTMENT,  
*Washington City, December 10, 1867.*

SIR: In reply to the Senate resolution of December 4, 1867, I have the honor to send herewith a communication of December 9, from the Adjutant General of the army, covering copies of reports and maps in the War Department from the commanding officer of the military division of the Pacific, concerning the reduction of the military reserve of Point San José, California.

Very respectfully, your obedient servant,

U. S. GRANT,  
*Secretary of War ad interim.*

HON. B. F. WADE,  
*President of the Senate.*

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,  
*Washington, December 9, 1867.*

SIR: In compliance with your instructions, I have the honor to submit herewith copies of all maps and papers on file in the bureaus of the War Department relative to the reduction of the military reservation of Point San José, called for by Senate resolution of the 4th instant. Papers bearing more fully on the subject were referred to Major General Halleck, commanding military division of the Pacific, October 29, 1867, of which no copies are on file in this office.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,  
*Assistant Adjutant General.*

General U. S. GRANT,  
*Secretary of War ad interim.*

ADJUTANT GENERAL'S OFFICE,  
*Washington, October 12, 1867.*

SIR: Referring to your indorsement of the 2d ultimo upon the communication of Brevet Major General McDowell, in reference to ejecting all squatters from



the Point San José reservation who refuse to take out leases, stating that you have authorized General McDowell to have suits of ejectment served against these persons subject to approval of the War Department, you are respectfully informed that your action has been approved by the Secretary of War.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,  
*Assistant Adjutant General.*

Major General H. W. HALLECK,  
*Commanding Military Division of the Pacific,  
San Francisco, California.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

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HEADQUARTERS DEPARTMENT OF CALIFORNIA,  
*San Francisco, California August 31, 1867.*

GENERAL: The engineers have completed the survey of the military reservation at San José.

I am told by the post quartermaster that some of the squatters on the reservation have pulled up the posts placed by the engineers, and taken away the fence made on the line of the reservation by the quartermasters' department, and threaten to continue to do so.

To avoid a recurrence of these indignities offered the government, or, what is nearly as much to be regretted, a collision between the military and the squatters, I beg to be authorized to have suits of ejectment instituted by the United States district attorney, before the United States circuit court, against all squatters on the reservation who will not take out leases from the United States, and bind themselves not to do anything, while remaining on the reservation, against the police and good order of the same.

I have the honor to be, very respectfully, your obedient servant,

IRVIN McDOWELL,  
*Brevet Major General Commanding Department.*

Brevet Major General J. B. FRY,  
*Assistant Adjutant General, Headquarters Military Division  
of the Pacific, San Francisco, California.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*




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HEADQUARTERS MILITARY DIVISION OF PACIFIC,  
*San Francisco, September 7, 1867.*

Respectfully forwarded to the Adjutant General of the army.

The authority here asked for has been given, subject to the approval of the Secretary of War.

H. W. HALLECK,  
*Major General U. S. Army Commanding.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

HEADQUARTERS DEPARTMENT OF CALIFORNIA,  
*San Francisco, California, August 16, 1867.*

SIR: The suit of *Grisar vs. McDowell*, for the possession of the United States military reservation of Point San José, in this harbor, and which has been decided by the United States circuit court at San Francisco in favor of the government, has been taken to the United States Supreme Court at Washington, and will come on for trial during the next term.

The suit involves not only the title of the United States to this important point, but also all the lands reserved for military purposes in and around the harbor of San Francisco.

The case is peculiar in many respects, and depends on much that is better known to the legal profession here than elsewhere. On this account, and on that of the magnitude of the public interests, I beg that the War Department, or the Attorney General, be requested to secure the assistance of the United States district attorney at San Francisco; Delos Lake, esq., for the case before the Supreme Court. He has thus far had it successfully in hand, is thoroughly acquainted with it in all its points, and can prepare it for the Attorney General better than any one in the country.

As he would need all the time possible in case he is to be employed, I wish you would send the answer hereto by telegraph, as soon as it is known.

Judge Lake has been employed up to this time by virtue of the authority communicated to me in your letter of May 14, 1866, and it is for his continued employment that I now apply, which I venture to urge on the department as necessary for the public interests.

Please telegraph me as requested.

I have the honor to be, very respectfully, your most obedient servant,

IRVIN McDOWELL,

*Brevet Major General Commanding Department*

ADJUTANT GENERAL

*United States Army, Washington, D. C.*

[Indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,  
*San Francisco, August 17, 1867.*

Respectfully forwarded to the Adjutant General of the army.

I recommend that this application be granted, as the public property involved in this case is of immense value. Moreover, should the decision be adverse to the government, it will carry with it the other military reservations in this harbor, and involve our officers in very serious suits for damages.

H. W. HALLECK,

*Major General U. S. A., Commanding.*

Official:

E. D. TOWNSEND;

*Assistant Adjutant General.*

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*Extract from inspection report of Major Roger Jones, United States army, assistant inspector general military division of the Pacific, dated August 3, 1867.*

• • • • •  
 The military reservation of Point San José, understood to be comprised within a circle described with a radius of 800 yards from the extreme northern point

of the promontory as a centre, has not been surveyed and marked as directed by the department commander in his Special Order No. 9, dated January 12, 1867, and reiterated in his Special Order No. 120, of June 4, 1867.

The work commenced under the first order was, for cause unknown to Colonel Platt, suspended, although he was prepared to execute the portion devolved upon him, and, as far as he is advised, nothing has been done under the second order.

The Pioneer Woollen Mills, with their extensive buildings, as also the water works, are evidently within the limits of the reservation, as above described.

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Official :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

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ENGINEER DEPARTMENT,  
*Washington, February 6, 1867.*

SIR ; I have the honor to return herewith the papers in the case of the proposed cession to the city of San Francisco of a part of the military reservation at San José Point, California, which were referred to this office for report.

The board of engineers for the Pacific coast, to which the case was referred for examination, reports as follows :

The board regards the position of Point San José as of great importance in the second line of defence. It is essential that the fire of the guns should cover all the waters lying between lines drawn from Point San José to Sand Point and to North Point.

The position should admit of defence against a land attack. The United States should have control of all the shoal water in front of the original reserve, and on the land the limits should be as follows : Beginning on the east at the intersection of the original reserve line with the southern line of Jefferson street, thence along this latter line to its intersection with the eastern line of Van Ness avenue, thence along this line to its intersection with the southern line of Bay street, thence along the south side of this street to the west side of Buchanan street, thence along the west side of Buchanan street to its intersection with the north side of North Point street, thence along the south side of this street to the westerly shore. The proposed line of Beach street would deprive us of land defence, and impair the channel defence by diminishing the number and masking the fire of the guns.

In my opinion it would be best to retain the entire original reservation of 800 yards from the extremity of Point San José, but should it be decided to reduce the reserve to the minimum compatible with the interests of the government, I would recommend that the boundaries designated by the board, as above given, be adopted.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,  
*Chief of Engineers.*

Official :

E. D. TOWNSEND,  
*Assistant Adjutant General.*

[Telegram.]

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,  
*San Francisco, Cal., February 2, 1867.*

**GENERAL:** The line of Beach street cuts off part of the government improvements on reserve, and is objected to by General McDowell and board of engineers, unanimously.

General McDowell, part of the board, and myself, approve of the following: Beginning at the intersection of the shore line, mean low water, west of Point San José, and the northerly line of North Point street; thence easterly, along the north line of North Point street to eastern line of Van Ness avenue; thence along eastern line of Van Ness avenue to the north line of Jefferson street; thence along north line of Jefferson street to Larkin street; including all lands north of said lines to the ship channel or deep water. This includes all government improvements and excludes all private improvements not in military possession.

Part of the board think the line should be Bay street to Van Ness avenue, &c. I will write more fully by mail, with maps.

H. W. HALLECK, *Major General.*

General E. SCHRIVER,  
*Washington, D. C.*

Official copy by mail of February 4, 1867.

ROBERT N. SCOTT,  
*Brevet Lieutenant Colonel U. S. A.,  
 Acting Assistant Adjutant General.*

Official copy:

E. D. TOWNSEND,  
*Assistant Adjutant General.*

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,  
*San Francisco, Cal., February 2, 1867.*

**GENERAL:** I enclose herewith a copy of my telegram of this date to General E. Schriver, in regard to the military reserve at Point San José; also maps or sketches, Nos. 1 and 2.

The main object of the bill now before Congress I presume is to exclude from the reserve the land now occupied by the Bensby water-works and the Pioneer woollen mills, on which very large sums of money have been expended. These works are all west of Van Ness avenue, and south of Jefferson street. There are no private improvements between Beach and North Point streets, west of Van Ness avenue; but there are in this space improvements made by the government, and a sand ridge which may be required for the gorge of the work. Some of the engineer officers think that the reserve should extend back as far as Bay street. General McDowell and myself did not concur in the necessity for this, and the line would then extend beyond the present reserve on the west beach, and include some private improvements.

The object in extending the reserve along Jefferson street to Larkin street is to prevent the city from extending north in the water at that point and thereby obstructing a fire from the point on the anchorage in front of the city. From the same reason the reservation should extend north to deep water. Outside of the line of mean low water the city has laid out streets and lots, which if built on would obstruct all fire from the fortifications.

It will be observed by examining map No. 2, which is copied from the official map of the city, that streets and lots had been laid out to deep water in the bay

between Webster avenue and the east line of the Presidio reserve. Should these lots be built on, the buildings will obstruct the fire of batteries on the west side of Point San José, looking towards the entrance to the bay. The attention of the War Department is especially called to this subject. The city of San Francisco claims these lots under an act of the State legislature, granting them as overflowed lands. Being outside of both of the reserves made by President Fillmore, it may be questionable whether the President can now include them in any new military reservation. The matter, however, is an important one, and should receive the attention of the Attorney General.

Very respectfully, your obedient servant,

H. W. HALLECK,  
Major General U. S. Army,  
Commanding Military Division of the Pacific.

Brevet Major General E. D. TOWNSEND,  
Assistant Adjutant General U. S. Army, Washington.

Official copy :

E. D. TOWNSEND,  
Assistant Adjutant General.

ADJUTANT GENERAL'S OFFICE,  
Washington, D. C., May 4, 1866.

SIR : I have the honor to acknowledge the receipt of your communication of March 21, stating that an action has been commenced by one Emil Grisar for the recovery of a portion of the United States Military Reserve No. 1, near San Francisco, and that you have placed the papers in the case in the hands of the United States district attorney, Judge Lake, to protect the interests of the government.

Your action in the case is approved by the Secretary of War.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,  
Assistant Adjutant General.

Major General IRVIN McDOWELL,  
Commanding Department of California,  
San Francisco, California.

Official :

E. D. TOWNSEND, A. A. G.

HEADQUARTERS DEPARTMENT OF CALIFORNIA,  
San Francisco, California, March 21, 1866.

SIR : I have the honor to report that an action has been commenced by Emil Grisar for the recovery of a portion of the United States Military Reserve No. 1, near this place. This reserve was duly made by the President of the United States in his orders dated November 6, 1850, and December 31, 1851, as follows :

"EXECUTIVE CHAMBER,  
" Washington, D. C., December 31, 1851.

"The reservation including Fort Point, Point San José, and the Presidio, at the entrance of the harbor of San Francisco, California, made by an order dated November 6, 1850, is hereby modified and reduced so as to embrace only the following described two tracts of land, viz :

"1. The promontory of Point José, within boundaries not less than eight hundred yards from its northern extremity.

"2. The Presidio tract and Fort Point, embracing all the land north of a line running in a westerly direction from the southeastern corner of the Presidio tract to the southern extremity of a pond lying between Fort Point and Point Lobos, and passing through the middle of said pond and its outlet to the channel of entrance from the ocean.

"MILLARD FILLMORE."

This reserve was "squatted" upon by Frémont, Haskell & Co., they well knowing (as is shown by the papers on file at these headquarters) that it was government land, set aside for military purposes, and it is the misfortune or fault of Grisar that all the right he claims is derived from their wrong.

The promontory of San José has been considered by every engineer and every commanding officer and every naval officer who has seen it and been called upon to pass an opinion upon it, as of the first importance to the United States for the defence of the harbor of San Francisco. It is a most commanding position, and vessels passing the entrance, which is wide and deep, come under the fire of its batteries from a half to a quarter of a mile before those of Alcatraz.

It has been taken possession of and fortified and quarters built on it during the rebellion. It is very valuable, and the highest legal authority on this coast has said that the right and title of the United States to it is perfect.

I, therefore, as the officer in charge, feel called upon to see that it does not again pass into the possession of those who have no right or title to it, and have placed the papers in the case in the hands of the United States district attorney, Judge Lake, to protect the interests of the government in the suit about to be commenced.

I have the honor to be, very respectfully, your obedient servant,

IRVIN McDOWELL,

*Major General, Commanding Department of California.*

Hon. E. M. STANTON,

*Secretary of War, Washington, D. C.*

[Indorsement.]

Respectfully forwarded and approved.

H. W. HALLECK,  
*Major General Commanding.*

Official copy :

E. D. TOWNSEND,  
*Assistant Adjutant General.*



LETTER  
OF  
THE SECRETARY OF THE TREASURY,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 6th instant, information in relation to the appointment of Edmund Cooper Assistant Secretary of the Treasury, and his assuming the duties of said office.*

DECEMBER 10, 1867.—Read, referred to the Committee on Finance, and ordered to be printed.

TREASURY DEPARTMENT, *December 7, 1867.*

SIR: In response to the resolution of the Senate of the 6th instant, directing the Secretary of the Treasury to inform the Senate if Edmund Cooper did assume the duties of the office of Assistant Secretary of the Treasury upon the 30th of November; and if so, under what law or by what authority, if any, he was allowed to do so; or whether the said Cooper has been appointed Assistant Secretary of the Treasury either before or since the present session of Congress commenced, or whether he has performed duties as Assistant Secretary of the Treasury, or as acting Assistant Secretary of the Treasury; also the nature of the commission given to said Cooper, and the length of time it is to run—I have the honor to say that the person named did not assume the duties of the office in question either on or before the 30th of November, but that on 2d of December, a vacancy having occurred in said office by the resignation of W. E. Chandler, esq., the President in pursuance of the first section of the act of Congress approved February 13, 1795, entitled "An act to amend an act entitled 'An act making alterations in the Treasury and War Departments,'" authorized in writing Mr. Cooper to perform the duties of the office until a successor should be appointed or such vacancy be filled.

The authority thus conferred will, by the terms of the act, expire at the end of six months from the time when it was conferred, should it not be sooner terminated by the filling of the vacancy, by revocation, or otherwise.

Mr. Cooper has been acting under this authority from the time when it was conferred.

A copy of the paper signed by the President is herewith transmitted.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. B. F. WADE,  
*President of the United States Senate, Washington, D. C.*



## APPOINTMENT OF EDMUND COOPER.

EXECUTIVE DEPARTMENT,

*Washington, December 2, 1867.*

Whereas a vacancy has occurred in the office of Assistant Secretary of the Treasury of the United States, in pursuance of the authority vested in me by the first section of the act of Congress approved February 13, 1795, entitled "An act to amend the act entitled 'An act making alterations in the Treasury and War Departments,' " Edmund Cooper is hereby authorized to perform the duties of Assistant Secretary of the Treasury until a successor be appointed, or such vacancy be filled.

[SEAL.]

ANDREW JOHNSON.

LETTER  
FROM  
THE ATTORNEY GENERAL,  
IN ANSWER TO

*Resolution of the 16th instant, transmitting a report of the amounts paid for special counsel and United States district attorneys during the years ending June 30, 1865, 1866, and 1867, and on the organization of this office.*

DECEMBER 20, 1867.—Read, referred to the Committee on the Judiciary and ordered to be printed.

ATTORNEY GENERAL'S OFFICE,  
Washington, December 20, 1867.

SIR: In compliance with a resolution passed by the Senate, December 16, 1867, I have the honor to transmit herewith a report on the amounts paid during the years ending June 30, 1865, 1866, and 1867, for special counsel employed to assist the Attorney General and the United States district attorneys, and on the organization of this office.

Very respectfully, sir, your obedient servant,

HENRY STANBERY,  
Attorney General.

Hon. B. F. WADE,  
President of the Senate pro tempore.

To the Senate of the United States:

By resolution passed by the Senate December 16, 1867, the Attorney General is requested to inform the Senate—

"1. What amount was paid by the United States for special counsel employed to assist the Attorney General in cases depending before the Supreme Court of the United States for the years ending June 30, 1865, June 30, 1866, and June 30, 1867.

"2. Whether the present force in the Attorney General's office is sufficient for the proper business of that office.

"3. Whether the solicitors and clerks, acting as such, in the various departments and in the Court of Claims, cannot be dispensed with, and the duties they perform be discharged under the direction of the Attorney General, so as to bring all the law officers of the government under one head, with saving of expense and benefit to the public service.

"4. The amount paid for the years ending June 30, 1865, June 30, 1866, and June 30, 1867, for assistance rendered to the district attorneys."

In answer to these inquiries, (transposing for convenience the order in which they are stated,) I have the honor to inform the Senate that there was paid by the United States for special counsel employed to assist the Attorney General

in cases depending before the Supreme Court of the United States, the following amounts :

For the year ending June 30, 1865 .....	\$6, 500
For the year ending June 30, 1866 .....	13, 000
For the year ending June 30, 1867 .....	7, 800

The amounts paid for the same years for assistance rendered to the district attorneys are as follows :

For the year ending June 30, 1865 .....	\$14, 000
For the year ending June 30, 1866 .....	16, 000
For the year ending June 30, 1867 .....	25, 000

which last includes fees paid to special counsel employed in the prosecution of Mr. Davis for high treason.

These amounts include the sums paid to lawyers called assistant district attorneys, whose compensation is in the form of an agreement for an annual allowance, and to special counsel employed to assist the district attorney in special cases by the Attorney General. The fees of special counsel employed by heads of departments are not included in the amounts stated.

The present force in the office of the Attorney General is not sufficient for the proper business of that office. As to the mere administrative business of the office the present force is sufficient ; but as to the proper duties of the Attorney General, especially in the preparation and argument of cases before the Supreme Court of the United States, and the preparation of opinions on questions of law referred to him, some provision is absolutely necessary to enable him properly to discharge his duties. After much reflection it seems to me that this want may best be supplied by the appointment of a solicitor general. With such an assistant, the necessity of employing special counsel in the argument of cases in the Supreme Court of the United States would be in a great measure, if not altogether, dispensed with.

It will be observed that the sums paid to special counsel in that court have for the last three years averaged the sum of \$9,100 per year ; so that a salary might be allowed to a solicitor general sufficient to command the services of a competent lawyer with a positive saving of expense to the government.

On the third point of inquiry, in my opinion the various law officers now attached to the other departments and the Court of Claims might, with advantage to the public service, be transferred to the Attorney General's office, so that it may be made the law department of the government, and thereby secure uniformity of decision, of superintendence, and of official responsibility.

HENRY STANBERY,  
*Attorney General.*

## MESSAGE

FROM THE

# PRESIDENT OF THE UNITED STATES,

IN ANSWER TO

*A resolution of 6th instant, transmitting a report from the Secretary of State concerning the International Monetary Conference held at Paris in June, 1867.*

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DECEMBER 19, 1867.—Read, referred to the Committee on Finance, and, with accompanying papers, ordered to be printed.

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*To the Senate of the United States:*

In answer to the resolution of the Senate of the 6th instant, concerning the International Monetary Conference held at Paris in June last, I transmit a report from the Secretary of State, which is accompanied by the papers called for by the resolution.

ANDREW JOHNSON.

WASHINGTON, December 17, 1867.

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DEPARTMENT OF STATE,

Washington, December 17, 1867.

The Secretary of State, to whom was referred a resolution of the 6th instant, requesting to be furnished with a copy of all correspondence between the government of the United States and that of France, in respect to the International Monetary Conference held in Paris in June and July last, with a copy of any instructions to, and reports from, the delegate in the conference from the United States, has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted:

WILLIAM H. SEWARD.

The PRESIDENT.

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*List of accompanying papers.*

Mr. Berthemy to Mr. Seward, January 4, 1867.

Mr. Seward to Mr. Berthemy, February 13, 1867.

Mr. Berthemy to Mr. Seward, May 27, 1867.

Mr. Seward to Mr. Berthemy, May 29, 1867.

Mr. Seward to Mr. Ruggles, May 29, 1867.

Mr. Seward to General Dix, May 29, 1867.

Mr. Ruggles to Mr. Seward, May 30, 1867, (extract, with accompaniments.)

Mr. F. W. Seward to Mr. Ruggles, June 21, 1867.

General Dix to Mr. Seward, June 28, 1867, (with accompaniments.)  
 Mr. Ruggles to Mr. Seward, July 12, 1867, (extract.)  
 Mr. Ruggles to Mr. Seward, July 18, 1867, (with accompaniments.)  
 Mr. Berthemy to Mr. Seward, August 28, 1867.  
 Mr. Seward to Mr. Berthemy, September 16, 1867.  
 Mr. Seward to Mr. Berthemy, September 30, 1867, (with an accompaniment.)  
 Mr. Ruggles to Mr. Seward, October 4, 1867, (extract.)  
 Mr. Seward to Mr. Ruggles, October 25, 1867.  
 Mr. Dumas to the President, November 5, 1867.  
 The President to Mr. Dumas, November 27, 1867.  
 Mr. Dumas to Mr. Seward, November 5, 1867.  
 Mr. Seward to Mr. Dumas, November 27, 1867.  
 Mr. Ruggles to Mr. Seward, November 7, 1867, (with accompaniments.)

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*Mr. Berthemy to Mr. Seward.*

[Translation.]

LEGATION OF FRANCE AT WASHINGTON,  
*Washington, January 4, 1867.*

SIR: I have the honor to transmit herewith to your excellency a copy of the text of the monetary convention, concluded December 23, 1865, between France, Belgium, Italy, and Switzerland.

As you will see, Mr. Secretary of State, this act, which went into force the 1st August last, reconstituted, under the guarantee of an international contract, a monetary union which had existed in fact between these four states, but which diverse measures, adopted without preliminary understanding, had broken up during late years. These measures adopted successively in Switzerland, in Italy, and in France, had a sole object, that of putting an end to the abnormal disappearance of fractional silver money, or standard change money, indispensable for payments of trifling amounts. To the same evil they opposed the same remedy, the lowering of the standard, but according to different rules and proportions. The Swiss pieces, for instance, coined at the standard of eight hundred thousandths fine, while those of France and of Italy were at the standard of eight hundred and thirty-five, had to be refused in the public treasuries of the empire, as well as in those of the kingdom of Italy. The inconvenience of this state of things was not long in becoming apparent, and causing, perhaps, more keenly than in past time, the appreciation by the populations of the four bordering states, of the advantages of the monetary communion by which they had been formerly benefited. For the purpose of satisfying the just claims and pressing interests of trade the government of the Emperor last year proposed to Belgium, to Italy, and to Switzerland, to intrust to a mixed international commission the care of re-establishing the ancient uniformity by taking account of facts accomplished, and of the new conditions of the monetary circulation of Europe. Commissioners appointed by these different states assembled at Paris under the presidency of M. de Parieu, vice-president of the council of state, and, in stating the causes for the convention of the 23d December last, they have fully met the immediate end which was assigned for their labors, according to the expression used by the minister of finance of Belgium, on submitting to the Belgian chamber the project of law intended to sanction the convention: "This act contains in effect, within itself, saving the unity of stamp, a monetary system, complete for moneys, (coin,) properly so called, to the exclusion of *billon*, (base coin.)"

At this time the gold and silver coinage of these four states is conducted under

conditions that are identical. In what relates especially to fractional silver of the piece of five francs for real change of standard money, which alone can meet the demand for small transactions, the standard of eight hundred and thirty-five thousandths has been definitively adopted; this is the figure which, already adopted in France and in Italy, has seemed best to satisfy the conditions of the problem which was in discussion for a solution—that is to say, to give to fractional metallic coins of the union the highest intrinsic value and the qualities of a good alloy, at the same time doing away the premium they had reached from the relative depreciation of gold, which allowed speculation to melt them up and export them at a profit.

Express provisions limit, moreover, the emission of this legal small change, and serve also as the corrective of the lowering of the standard value. Precise rules reduce to the smallest possible figures the allowances for cost of fabrication, so as to maintain the money of the union in a constant normal condition. In fine, you will remark, Mr. Secretary of State, a clause which is detached from the rest of the stipulations, exclusively destined to determine the monetary regulations of the four countries. I desire to say something of the accession which article twelve guarantees to any other state. This clause may be considered as the manifestation of a wish that sprung up in the proceedings of the international conference, and has not been without influence on the happy issue of the negotiations. After having brought about the disappearance of divergencies of which they recognized the inconveniences, the delegates of France, of Belgium, of Italy, and of Switzerland, seeing a population of seventy millions of souls thenceforth endowed with the same monetary system, must quite naturally have been led to fix attention on an interest more general. Without entering on the examination of a question which it was not their mission to solve, they expressed in the name of their governments the desire to see the union, as yet restricted to four countries, become the germ of a union more extended, and of the establishment of a general monetary circulation among all civilized states.

The government of the Emperor would be very happy to see this proposition well received, but, at the same time, cannot dissemble the difficulties and objections it might encounter. But it doubts not, at least, that the views which are thus inspired correspond with necessities which henceforth must press upon the solicitude of governments. In proportion as the solidarity which now exists between economic interests becomes more and more close, each nation, in view of advantages already realized, better understands the importance of removing the obstructions still met with in international relations, one of the most onerous and annoying results assuredly, from the diversity of coinage which multiply the fluctuations of exchange. The idea of the unification of the monetary systems makes, then, every day fresh progress. It is under its influence that, since the 24th January, 1857, there has been concluded the treaty which has markedly simplified the monetary régime of the States comprised in the ancient Germanic confederation; and more recently, in 1865, the same tendency has manifested itself in the discussions and in the votes of the German commercial diet; in fine, the convention, even of the 23d December, has been spontaneously the object on the part of several foreign governments of an investigation which bears sufficient evidence of their solicitude about the interests which attach to it. A new monetary law has already introduced in the Roman States the régime stipulated by the convention of Paris; and, in the United States, public opinion has been called to this question even in the deliberations of Congress.

If, for the moment, objections too weighty prevent the federal government from adhesion to the convention of 23d December, the government of the Emperor would not the less attach special value to being informed of these obstacles, and to learn what observations may have been drawn forth by the examination of that international act. In the absence of more immediate results, there would be incontestable advantage in being enabled to appreciate exactly

the nature and extent of the difficulties that must be thought of removing, in order to arrive at monetary uniformity ; and from the moment it is allowable to look toward the practical solution of such a problem, it becomes the duty of governments to follow it up, without exclusive ideas, mutually enlightening each other in their researches. Thus, also, in case the federal government, without wishing to accede to the union actually constituted, should be disposed, either to enter into arrangements destined to establish equations between some of its monetary types of gold or silver, and those which the convention may determine, or to take part in an international conference at which might be discussed the means of arriving at a more extended monetary understanding, the government of the Emperor will entertain with readiness the overtures which might be addressed to it in this view.

Accept, Mr. Secretary of State, the assurances of my very high consideration.  
BERTHEMY.

Hon. WILLIAM H. SEWARD.

The translation of the text of the convention of December 23, 1865, will be found annexed to Mr. Ruggles's report of 7th November, in this volume.

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*Mr. Seward to Mr. Berthemy.*

DEPARTMENT OF STATE,  
*Washington, February 13, 1867.*

SIR: I have the honor to acknowledge the receipt of your communication of the 4th ultimo, transmitting a copy of the text of a monetary convention concluded on the 23d of December, 1865, between France, Belgium, Italy, and Switzerland, the origin and purpose of which your note lucidly explains, and which by its terms is open to the adhesion of other governments.

Your note indicates a wish on the part of the imperial government, in the event of that of the United States not being prepared to subscribe to the stipulations of the convention, to be made acquainted with the obstacles in the way of such an arrangement ; and you most courteously suggest that if this government, even though not able to accede to the conventional union actually constituted, should be disposed either to agree upon stipulations destined to establish equations between some of its monetary types of gold or silver and those which the convention may determine, or to take part in an international conference at which might be discussed the means of arriving at a more extended monetary understanding, the government of the Emperor will entertain any overtures which might be addressed to it with this view.

Having consulted the Secretary of the Treasury upon the subject, I have the honor to state, in reply to your note, that this government, both in its legislative and executive departments, has repeatedly manifested its interest in the question of international unification of monetary standards ; that the importance of a standard unit of equal value in all commercial countries for the uses of account and currency is fully recognized and appreciated ; and that the ideal object presented in your communication being acceptable, it only remains to be decided how the desired result may be brought about.

It is to be hoped that neither the quadripartite convention, nor the proceedings already adopted by the four governments under its provisions, will be held to preclude any of those governments from entertaining considerations in favor of its modification which may be offered by other governments in the interests of a system universally acceptable.

From the enclosed reports you will be able to form an idea of the progress of the investigation of this question by this government, and of its views as to the



manner in which the discussion of it should be continued. Both branches thereof have concurred in providing the agencies for this purpose, in connection with the Universal Exposition to be opened at Paris in April next, on which occasion it is presumed that leading nations, not parties to the convention before noticed, will be represented with authority vested in their delegates or commissioners to consider and report upon this question with those of the four powers. This government, however, has no hesitation in avowing its desire to come into accord with other governments with which the United States hold important relations, to attain the object proposed, and to encourage a spirit of conciliation in face of the conflicting interests and inconveniences involved in its accomplishment.

I beg that you will accept, sir, a renewed assurance of my highest consideration.

WILLIAM H. SEWARD.

M. BERTHEMY, &c., &c., &c.

The documents enclosed with the above were : the report of the Hon. John Kasson, from the Committee on Coinage, Weights and Measures, of the House of Representatives, (report No. 62, thirty-ninth Congress, first session ;) the report of the director of the mint of the United States for the fiscal year ending June 30, 1866 ; and President's message and documents, (Senate Ex. Doc. No. 5, thirty-ninth Congress, second session,) relating to the collection of products, and of weights, measures, and coins for the Paris Universal Exhibition of 1867.

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*Mr. Berthemy to Mr. Seward.*

[Translation.]

LEGATION OF FRANCE TO THE UNITED STATES,  
*Washington, May 27, 1867.*

MR. SECRETARY OF STATE: On communicating to you, under date of 4th January last, the text of the monetary convention recently concluded between France, Belgium, Italy and Switzerland, I had, at the same time, the honor to call your attention to the opportunity for submitting to an international conference which should be held at Paris the study of the more general question of uniformity of coinage.

In view of the reception given to these overtures, as well by the cabinet of the United States as by those of other countries to which they were addressed, the government of the Emperor has thought that the time has arrived for following out the project, the realization of which it was their aim to prepare. In consequence, a formal proposition has been transmitted through the diplomatic medium to divers governments in order that they might cause themselves to be represented in a commission which should meet at Paris on Monday, the 17th June next, at the hotel of the department for foreign affairs. This conference would be presided over conjointly by the minister for foreign affairs and the minister of finance. The vice-presidency would be devolved on Mr. de Parieu, vice-president of the council of state, who, with Mr. Herbet, minister plenipotentiary, director of consulates and commercial affairs, would thereat represent the department for foreign affairs. The delegates from the department of finance would be Mr. Pelouze, member of the institute, president of the commission on coinage, and Mr. de Lavenay, president of the section of finance in the council of state. His excellency the Marquis de Moustier charges me, in placing these notices before the government of the United States, to convey to it, at the same time, the invitation to participate in the international monetary conference. It would attach even, in consequence of the early time at which the



labors should commence, very special value to the information as soon as possible of the name of the delegate by whom the cabinet of Washington shall deem fit to be represented, and I would be very thankful to your excellency if you would, as soon as possible, inform me on this point.

There is no need to add that the commissioners will assemble without any programme arranged in anticipation. They will thus be able to look more freely for a solution of the difficulties which would oppose an assimilation between the systems actually in operation. This mode of proceeding, which has already received so happy application at the conferences of 1865, appears at this time of greater utility, inasmuch as different countries, while appreciating the importance of the object to be attained, would have the means of recurring to divergent opinions. The conference proposed has not otherwise any immediate object than to call out an interchange of views and discussion of principles ; in a word, to seek for the basis of ulterior negotiations.

Accept, Mr. Secretary of State, the assurances of my high consideration.

BERTHEMY.

HON. WILLIAM H. SEWARD, &c., &c., &c.

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*Mr. Seward to Mr. Berthemy.*

DEPARTMENT OF STATE,

*Washington, May 29, 1867.*

SIR : I have the honor to acknowledge the receipt of your note of the 27th instant in relation to an international conference proposed to be held at Paris on the 17th of next month for the purpose of an interchange of views and discussion of principles, with a view to ulterior negotiations upon the subject of a uniform system of coinage. You express on the part of the imperial government a wish to receive early information of the name of the delegate who will be selected to represent the United States at the conference.

In reply I have the honor to inform you that the honorable Samuel B. Ruggles, who is now in Paris in the character of a scientific commissioner of the United States to the Universal Exhibition, and who is familiar with the views of this government, has been specially authorized to represent it on the occasion to the extent and in the spirit indicated in your note.

General Dix, the minister of the United States at Paris, has been requested to confer and co-operate with Mr. Ruggles to such a degree as may be convenient or necessary.

Appreciating the courtesy of the imperial government in notifying that of the United States of the proposed conference, I beg you to accept, sir, a renewed assurance of my highest consideration.

WILLIAM H. SEWARD.

M. BERTHEMY, &c., &c., &c.

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*Mr. Seward to Mr. Ruggles.*

DEPARTMENT OF STATE,

*Washington, May 29, 1867.*

SIR : I transmit a translation of a note of the 27th instant, addressed to me by the minister of France, under instructions from his government, in regard to an international conference proposed to be held at Paris on the 17th of June next, to consider the general question of the uniformity of coinage.

You are hereby empowered to attend that conference on behalf of the United

States, and to represent your government to the extent and in the spirit indicated in the enclosed.

You are requested to transmit to this department a detailed report of the deliberations and conclusions of the conference, with such observations as may seem to you to be useful.

General Dix has been apprised by the same mail which bears this communication to you of the circumstances under which you are empowered to represent the United States on this occasion, and he has been requested to confer and co-operate with you to such extent as may be convenient.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

SAMUEL B. RUGGLES, Esq., &c., &c., &c.

*Mr. Seward to General Dix.*

No. 74.]

DEPARTMENT OF STATE,

Washington, May 29, 1867.

SIR: I enclose a translation of a note of the 27th instant which was addressed to me by Mr. Berthemy, the minister of France accredited to this government, concerning an international conference proposed to be held at Paris on the 17th of June next.

The honorable Samuel B. Ruggles having heretofore received special instructions to take into consideration the general subject of a uniform system of weights, measures, and coins, I have by this mail forwarded to him a copy of the enclosed, with instructions to attend the proposed conference on behalf of the United States, and to participate in its deliberations to the extent and in the spirit indicated in Mr. Berthemy's note, concerning the question of the uniformity of coinage.

I will thank you to confer and co-operate with Mr. Ruggles in this matter to such extent as may be convenient, and to render him any aid and facilities which it may be in your power to afford.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

JOHN A. DIX, Esq., &c., &c., &c.

*Mr. Ruggles to Mr. Seward.*

Extract from a communication from Mr. Ruggles, as member of the preliminary "international committee" on uniformity of coinage organized by the imperial commission of the Universal Exposition.

PARIS, May 30, 1867.

SIR: \* \* \* \* \*

Before the meetings of the international committee for examining the question of a uniform coin had commenced, the undersigned was enabled, through the introduction of Monsieur Michel Chevalier, senator of France, who takes much interest in the subject, to confer fully with M. de Parieu, vice-president of the conseil d'état, and one of the two representatives of France in negotiating the quadripartite treaty or monetary convention of the 23d of December, 1865, between France, Belgium, Switzerland, and Italy. To that treaty the United States are now invited to become a party, in the communication from M. Berthemy, minister of France at Washington, to the Secretary of State of the United States, a copy of which, forwarded from Washington by the Department of State, reached the undersigned on the 29th of May, instant.

The undersigned does not assume in any way to discuss the diplomatic question whether the United States, for the purpose of securing the adoption of a common unit of money, should attain that result by means of a permanent and obligatory treaty, or should rest satisfied with concurrent legislation capable of easy change, and thus reserving a wider freedom and greater elasticity of action. He felt, however, at liberty, in case the concurrence of the United States by needful legislation in any form was required, to suggest to M. de Parieu the expediency, and, indeed, to urge the necessity, of modifying that portion of the treaty in question which prohibits either of the four nations who had made it from issuing gold coin of any denominations but those of five, ten, twenty, fifty, and a hundred francs. This necessity is obvious at once from the fact that the gold coin most in ordinary use in the United States is the half-eagle of five dollars, which, with a slight diminution, could be readily reduced to twenty-five francs in value. This coin, when exported to France, in order to be readily and generally current, must there find itself side by side with some well-known French coin of like weight, diameter, and value. The propriety of this suggestion M. de Parieu not only admitted at once, but expressed his belief that the treaty might be modified by the four nations, in thirty days, to meet the necessities in this respect of the United States.

Shortly after this conversation with M. de Parieu, the undersigned, through the introduction of General Dix, the minister of the United States to France, had a personal conference with M. Rouher, chief minister of state, to whom the same suggestions as to the twenty-five franc gold coin were made, with some more extended remarks on the lasting importance of unifying the coin of the world, thereby inaugurating a new historical era in the monetary affairs of mankind. The peculiar significance of the fact that the Congress of the United States, in recently authorizing the issue of one of our smaller coins, had given to it a precisely even metric weight and metric diameter (being five *grams* in weight and two *centimetres* in diameter,) thereby scattering widely through the pockets of the American people the means of studying the metric system by specimens of the *metre* and its derivative the *gram*, constantly visible, was also brought to the notice of M. Rouher. He became so much interested in the subject and its further examination, that he shortly afterwards caused the undersigned to be invited to a personal interview with the Emperor at the Tuileries.

Upon that occasion the Emperor, after expressing very cordially his gratification that the United States of America had shown their willingness to aid in unifying the coin of the world, proceeded in a straightforward, business way to ask, "What do you wish France to do in aid of the work?" To that interrogatory it was answered, first, that much could be done by distinctly recognizing in the official documents and discourses of the government the international unification of coin, as a result of cardinal importance to be attained at the Universal Exposition; that most of its memories, however brilliant, were necessarily evanescent, while a common coin, once secured with universal uniformity, would endure for a series of ages. Allusion was made to the historical fact that the world under the Roman empire, governed by Augustus and his successors, had practically enjoyed the boon of a common coin, but had lost it in the wreck of that imperial power; that now, after the lapse of fourteen centuries, the modern nations of the earth, convened under a higher civilization in a universal congress, wisely organized, had the opportunity to establish a new and better Augustan age of money, having a world-wide equality.

It was further urged that the United States of America, politically, commercially and geographically, had a peculiar interest in the subject; that they not only produced a large proportion of the precious metals needed by the world, but, from their continental and interoceanic position on the globe, enjoyed the pre-eminent and distinguishing advantage of having two outlets

for their coin—one leading westward across the Pacific to Asia, the other eastward across the Atlantic to Europe; that it was alike their interest and their ambition to secure for that coin the greatest facility for unchecked, economical and rapid circulation, freely passing through both the hemispheres without recoinage, or other impediment; that, in a word, the money of the world, as the common measure of its values, should be as uniform and as circumambient as the atmosphere of the world; and, finally, that the United States of America, as a component part of modern civilization, with a population of forty millions, rapidly increasing, naturally desired to participate in securing for the whole family of man a blessing so universal and enduring.

In answer, the Emperor asked, in a kindly tone, "Can France do anything more in aid of the work?" To which it was replied, France can coin a piece of gold of twenty-five francs, to circulate side by side on terms of absolute equality with the half-eagle of the United States and the sovereign, or pound sterling, of Great Britain, when reduced, as they readily might be, precisely to the value of twenty-five francs. The Emperor then asked, "Will not a French coin of twenty-five francs impair the symmetry of the French decimal system?" To which it was answered, "No more than it is affected, if at all, by the existing gold coin of five francs;" that it was only the silver coins of France which were of even metric weight, while every one of its gold coins, without exception, represented unequal fractions of the metre.

It was then stated to the Emperor that an eminent American statesman, Mr. Sherman, senator from Ohio, chairman of the Finance Committee of the Senate of the United States, and recently in Paris, had written an important and interesting letter, expressing his opinion that the gold dollar of the United States ought to be and readily might be reduced by Congress, in weight and value, to correspond with the gold five-franc piece of France; that the letter was now before the international committee, having the question of uniform coin under special examination, to which letter, as being one of the best interpretations of the views of the American people, the attention of the public authorities of France was respectfully invited. The Emperor then closed the audience, by repeating the assurances of his gratification that the important international measure in question was likely to receive active support from the United States.

The letter of Mr. Sherman, above referred to, dated the 18th May, 1867, originally written in English, was presented in a French translation a few days afterwards to the international committee in full session, where it was received with unusual interest and ordered by the committee to be printed in both languages. A copy is herewith transmitted for the information of the Department of State.

It will probably be regarded as a noticeable fact that while the British government has appointed an officer of its royal artillery, Colonel Younghusband, to exhibit in the "Pavilion" the weights, measures, and coins of Great Britain, it has hitherto omitted in any other way to participate in any discussions or action of the international committee on the subject of a uniform coin. There is good reason, however, to believe that its necessity is felt and acknowledged by a large and very respectable portion of the intelligent people of the British empire.

The Russian ambassador, Baron de Budbergh, has examined attentively the United States coinage of five cent pieces of metric weight and diameter, in which he has manifested a lively interest, as affording a facility for the easy instruction of the people in the metric system worthy of imitation by the Russian government. That government is ably represented in the international committee by Mr. de Jacobi, councillor of state, and particularly eminent in physical science. He is the president of the sub-commission on weights and measures, and earnestly advocates their international unification as a necessary step in human progress.

The government of Prussia refrains from actively entering at present upon

the discussion. A letter written by order of Count Bismarck to the diplomatic representative of France at Berlin, and dated February 2, 1867, states that the confederation of northern Germany is entering upon a political programme "which may include its local monetary questions;" the completion of which programme he may choose to await, before entering upon the subject of international unification, the eventual importance and interest of which the letter plainly recognizes. A copy of the text is herewith furnished.

At a meeting of the sub-commission on coins, held to-day, after hearing much discussion, the following note, seeking a practical result, was submitted for consideration by the undersigned, with the approbation of his colleague, Mr. John P. Kennedy, one of the commissioners to the Paris Exposition, who had been associated with him on the committee:

"The commission recommend that a proposition shall be submitted to the respective governments of France and the United States of America, that the government of France shall issue, in addition to its present coinage, a gold piece of twenty-five francs, and that the government of the United States, in its future issues, shall reduce the weight of the gold dollar to the value of five francs, and shall bring its other gold coinage to the same standard."

Whether this proposition will be amended by inserting a similar provision as to the British gold sovereign, remains to be seen. The result of the deliberations of the commission, or of the international committee, when finally reached, will be communicated without delay to the Department of State.

With high respect, your obedient servant,

SAMUEL B. RUGGLES,

*Vice-President of the United States Commission at the Universal  
Exposition at Paris, and specially designated as member  
of the Committee on Weights, Measures, and Coins.*

HON. WILLIAM H. SEWARD,

*Secretary of State, &c., &c., &c.*

[Translation.]

*By direction of Count Bismarck, to Mr. Benedetti, minister of France at Berlin.*

BERLIN, February 2, 1867.

MR. AMBASSADOR: I have had the honor to receive the letter which your excellency pleased to write to me under date of 12th December last, for the purpose of inducing the King to accede to the convention of the 23d December, 1865.

We do not undervalue the great advantages which the people of the two countries would derive from the approximation of the two monetary systems at this time in force. We would congratulate ourselves if we could contribute to remove the embarrassments which the diversity of coinage causes in our commercial relations. If, for the moment, I do not find myself in position to take on my part any steps to arrive at the understanding which you are pleased to propose to us, it is because, aside from the material difficulties which your excellency has not kept out of view, the present political situation prevents the royal government from entering upon an interchange of opinions upon this subject. The monetary question is one of those inscribed on the programme of the deliberations of the confederation of northern Germany. To discuss it in advance with another State would be to prejudice in some degree future discussions. When we shall know the result of those discussions, the favorable moment will arrive for advising in respect to the removal of the obstacles which still oppose the monetary union of the two countries.

I need not assure your excellency that I shall not lose this object from view, and intend to revert to it on the proper occasion.

Please to accept, sir, &c.

For the minister,

DE THILE.



*Mr. F. W. Seward to Mr. Ruggles.*

DEPARTMENT OF STATE,  
Washington, June 21, 1867.

SIR: Your very interesting communication of the 30th ultimo, reporting your proceedings in regard to the consideration of the question of the adoption of a uniform system of weights, measures, and coins, and enclosing a copy of your correspondence on the subject with the Hon. John Sherman, together with a copy of a letter of the 2d of February written by direction of Count Bismarck to Mr. Benedetti, has been received. The accommodating spirit manifested by M. de Parieu, and M. Rouher, chief minister of state, and subsequently by the Emperor in person, in the conversations held by you with them respectively, is appreciated as an auspicious augury of an eventual agreement upon some plan which will give to the world the benefits of the uniform system, upon a decimal basis, of weights, measures, and coins, which has so long and so universally been regarded as one of the most desirable reforms in commercial and financial intercourse.

The form in which different nations practically concur in this plan is not of primary importance, but it is believed that the deliberations which have now been inaugurated on the subject will result in a basis of common understanding which will warrant you in encouraging the expectation that the United States may give its adhesion to a conventional arrangement which may be susceptible of termination within a period to be specified in such arrangement, when such termination should be considered desirable by either of the parties. In any event it cannot be doubted that the views so ably set forth by the honorable chairman of the United States Senate Committee on Finance, in the letter of the 17th of May, a copy of which forms part of your communication now under reply, will be so far approved by the public sentiment, the Congress, and the Executive of the United States, as to secure a concurrence by this government in any reasonable plan for producing the desired reform.

I am, sir, your very obedient servant,

F. W. SEWARD,  
*Assistant Secretary.*

SAMUEL B. RUGGLES, Esq., &c., &c., &c.

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*Mr. Dix to Mr. Seward.*

No. 100.]

LEGATION OF THE UNITED STATES,  
Paris, June 28, 1867.

SIR: I have the honor to transmit herewith a translation of a communication received from the Marquis de Moustier, minister of foreign affairs, in relation to the appointment of Mr. Samuel B. Ruggles as a delegate to the international conference now holding its sessions in Paris.

I am, with great respect, your obedient servant,

JOHN A. DIX.

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

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*Mr. Dix to Mr. Moustier.*

LEGATION OF THE UNITED STATES,  
Paris, June 14, 1867.

SIR: I have the honor to inform you that Mr. Samuel B. Ruggles is authorized by my government to attend the international conference in regard to the

uniformity of coinage, to be held at Paris on the 17th instant. The despatch giving me this information was received this morning and I hasten to communicate it.  
I have the honor, &c., &c.,

JOHN A. DIX.

His Excellency the MARQUIS DE MOUSTIER,  
*Minister of Foreign Affairs.*

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*Marquis de Moustier to Mr. Dix.*

[Translation.]

PARIS, *June* 21, 1867.

GENERAL: I have received the letter which you did me the honor to write me on the 14th of this month, and in which you informed me that Mr. Samuel B. Ruggles had been officially appointed delegate to the international conference.

I congratulate you, general, on the choice made by the government of the United States—a choice which assures to the commission the co-operation of a gentleman whose enlightened intelligence has already been appreciated at the very commencement of the session.

Receive the assurances with the high consideration of which I have the honor to be, general, your very humble and very obedient servant,

MOUSTIER.

General DIX,  
*Minister of the United States, Paris.*

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*Mr. Ruggles to Mr. Seward.*

PARIS, *July* 18, 1867.

SIR: In the communication of the 30th May last which the undersigned had the honor to make to the Department of State, the proceedings of the "international committee organized by the French imperial commission of the "Universal Exposition," to consider the subject of an uniform system of weights, measures, and coins, were brought down to that date. The association with the undersigned on that committee of United States Commissioners Smith, Barnard, and Kennedy was also stated, with the assignment of the undersigned and Commissioner Kennedy to the sub-commission on coins, and of Commissioners Smith and Barnard to the sub-committee on weights and measures.

A copy of the letter to the undersigned from the honorable John Sherman, (senator of the United States from Ohio,) favoring the reduction in weight and value of the five franc coin of France, was also furnished. Full particulars were also given of the audiences on the subject had by the undersigned, successively, with the vice-president and president of the "conseil d'état," and with the Emperor of France, and especially in relation to the proposed coinage by France of a gold piece of twenty-five francs, to take its place throughout the world by the side of the "half-eagle" of the United States and the sovereign and pound sterling of Great Britain, when reduced in weight and value to twenty-five francs.

A copy of the written proposition to that effect submitted by the undersigned, with the concurrence of his colleague, Commissioner Kennedy, for the adoption of the international committee, that the government of France be requested to issue a gold coin of twenty-five francs, and that the government of the United States be requested to reduce its gold dollar in weight and value to five francs, and its

other gold coins in like proportion, was also communicated to the Department of State.

The undersigned is gratified to learn, by the communication from the Department of State of the 21st of June last, that the steps thus taken for securing the uniformity of money are approved by his government; that he "is warranted in encouraging the expectation that the United States may give its adhesion to a conventional arrangement which may be susceptible of termination within a period to be specified in such arrangement," and that "the views so ably set forth" in the letter of Mr. Sherman "will be so far approved by the public sentiment, the Congress, and the Executive of the United States as to secure a concurrence of the government in any reasonable plan for producing the desired reform."

Previously to the 23d of March last, the day when the undersigned arrived at Paris, the international committee had taken no steps to discuss the subject of uniform weights, measures and coins, their attention up to that time having been mainly given to the erection and arrangement of the pavilion in the interior garden of the Exposition for the actual exhibition and comparison of the weights, measures and coins of the respective nations represented in this universal concourse.

The subject of a uniform coin did not actually come into discussion, either in the international committee or the sub-commission on coins, until early in the month of May.

On the 17th of May the undersigned presented to the international committee the letter of Senator Sherman in a French translation, which was received with lively interest, and forthwith ordered, with the approbation of the imperial commission, to be published both in French and English. It is but due to the history of the unification of money to state that the earnest and active agitation of the subject in a practical form, on the part of the United States, exerted its full share of influence in leading the government of France to adopt the decisive measure of inviting in diplomatic form an authoritative "conference" of delegates, duly accredited, from all the nations of the European and American world practically accessible, to meet at Paris on the 17th of June, not merely for an exchange of views or a discussion of general principles, but "practically to seek for the basis of ulterior negotiation" between the nations.

The importance of this step had become evident at an early day to the French authorities, and especially to Monsieur Esquirou de Parieu, first vice-president of the "conseil d'état," pre-eminently distinguished by his long and well-directed labors in the cause of monetary unification, adorned by his learned and eloquent writings, replete alike with accurate knowledge and classic taste. He was one of the delegates on the part of France who successfully negotiated the quadripartite monetary treaty of the 23d of December, 1865, between France, Belgium, Switzerland, and Italy, the beneficent effects of which enlightened measure are now illuminating continental western Europe from the German ocean to the Mediterranean, carrying, in his own graphic language, "a common coin of equal value from Antwerp, across the mountains of the Oberland, to the classic coast of Brundisium."

As early as the 21st of April last the undersigned had urged upon M. de Parieu the importance which would be attached by the United States of America to the coinage by France of the gold piece of twenty-five francs, and the consequent necessity of modifying that portion of the quadripartite treaty which would prevent the issue of a coin of that denomination. The far higher importance of modifying and amplifying that treaty so as to rescue not only this emancipated portion of Europe, but all the American and European nations in both hemispheres, from the evils of their present discordant coinages, and embrace them all in one common monetary civilization, were earnestly dwelt upon. These views were repeated and re-enforced in several succeeding interviews.



On the 7th of May M. de Parieu, by note of that date, requested the undersigned to "formulate" in writing a proposition on the part of the United States to reduce its gold dollar in weight and value to the French gold piece of five francs, on condition that France should coin a gold piece of twenty-five francs, the gold coins of the two nations to be reciprocally receivable at their public treasuries; adding the expression of his personal opinion that such a combination would be a most fortunate enlargement "*un très heureux développement*" of the treaty of December 23 1865.

The undersigned, having no diplomatic authority on the 9th of May, was obliged to answer that such a step, in advance of the discussions in the international committee, would seem to fall, if not wholly beyond his powers, at least within the range of the permanent duties of General Dix, the regular diplomatic representative of the United States; but that on due consultation with him the note of M. de Parieu would be answered more at large. Copies of the note and of its answer are herewith furnished, (Nos. 1 and 2.)

On the 31st of May the undersigned was informed by M. de Parieu that diplomatic invitations had been issued by direction of the Marquis de Moustier, the French minister of foreign affairs, to most if not all of the nations represented in the international committee, requesting them respectively to appoint special delegates to an international monetary conference, to assemble at Paris on the 17th of June, at the "hotel" of the Ministère des Affaires Etrangères, and probably under the presidency of M. de Parieu.

On the 17th of June the invited nations (nineteen in number) responded to the call by delegates duly accredited. The credentials of the undersigned from the Department of State reached him at Paris on the 14th of June.

It was evident that such a conference, for all practical purposes, would take the place of the international committee so far as a uniform coin was concerned. It was thought, however, by that committee, embracing many members of experience and eminently scientific attainments, that their examinations and discussions of the subject had so far advanced that it was advisable to complete them, and to report the result as a preliminary study, to aid in the performance of the more practical duties of the conference, and more especially as several of the delegates in the conference were also members of the international committee.

The examination of the subject, mainly confined to general principles in the international committee, and dealing but little with the various existing systems of coinage, was completed by the 17th of June. The result of their deliberations appears in a series of propositions mainly of a general nature, but embracing a specific recommendation of the five-franc piece as a common point of contact for the coinages of the different nations. They were reduced to form, after the subject had been partially discussed, by Commissioner Kennedy, whose well-considered action on the committee has been eminently serviceable and creditable to the United States. With several amendments and modifications they were finally adopted by the sub-commission, and subsequently by the whole international committee. A copy of the propositions, as perfected, is herewith furnished, (No. 3.) They will also be found divided in heads, or portions, in the extended and able report prepared and submitted after their adoption by the Baron de Hock, an eminent financial writer, one of the delegates from Austria in the international committee, and the sole representative of that power in the international monetary conference. A copy of his report is herewith transmitted, (No. 4.)

These documents possess a permanent historical interest in showing that the intelligent labors of the international committee, especially in establishing general principles, had anticipated several of the important results which were subsequently reached by the international monetary conference.

It will be seen that the general propositions adopted by the international

committee do not include the special and specific proposition submitted by the undersigned on the 30th of May for the coinage by France of the 25-franc gold piece, it having been regarded as more proper for a separate negotiation with France, or a special clause in a general monetary treaty. It is, however, generally and fully understood that the French government will be ready at once to add that piece to its gold coinage whenever the United States shall reduce the weight and value of their gold dollar to that of the gold five francs, and their other coins in like proportion. The matter can be readily and fully secured and settled in ulterior negotiations, or, if necessary, by concurrent legislation.

For the purpose of showing the magnitude of the monetary interests and consequences, present and future, involved in the proposed unification, it became necessary to accurately exhibit in statistical form the comparative coinage, past and present, of the three principal coining nations, France, Great Britain, and the United States, with a general reference to the world-wide saving by the proposed reform, in needless recoinage, brokerage, and exchange.

It will be seen that the written argument, (here called a "Note," ) a copy of which is now transmitted to the Department, of State, in which the undersigned sought in behalf of the United States to present these cardinal facts, commences with a brief explanation which became necessary to meet an arithmetical and metrical objection which had been interposed by one of the international committee, (somewhat extreme in his devotion to the metric system,) that the proposed coin of twenty-five francs would not contain an even or round number of metric grams, and would therefore conflict with the metric system. Strange to say, some of the most distinguished economists in France are found to concur in this merely theoretical objection. The answer was, however, readily found, not only in the fact that none of the existing coins of gold in France, some of them as old as the century, contain an even or round number of grams, but more conclusively in its absolute necessity in the arithmetical relation between the legal value of gold and of silver fixed by the French law of 7 *Germinal, An xi* (1803,) at  $15\frac{1}{2}$  to 1. That ratio not being even or decimal, but uneven and fractional, is wholly at variance, and must forever remain in conflict with the decimal features of the metric system.

A silver franc contains five even metric grams; but a gram of gold being as one to fifteen and a half of silver, can only be arithmetically represented in francs by the uneven and imperfect decimal, 0.32258. That decimal multiplied by fifteen and a half will practically produce the five even grams of the silver franc. The multiplier itself being fractional, must be doubled to gain the even number 31, which sum multiplying the fractional gold decimal 0.32258, will produce the even number of ten grams of gold. No even multiplier smaller than 31 will produce an even number of gold grams. Any number of francs less than 31 will represent a fractional number of grams, and any number of grams less than 10 will represent a fractional number of francs.

It therefore follows, that if the extravagant requirement of exact metric coincidence of francs and grams should prevail, no monetary gold unit could be found smaller than 31 francs, equivalent in the gold currency of the United States, when unified, to six dollars and twenty cents, (\$6 20.)

Such a unit, so inconvenient and incongruous, the legitimate offspring of the fractional rates of  $15\frac{1}{2}$  to 1, is, moreover, wholly incapable of division into even parts exceeding a single franc, and consequently has no even multiples short of 62, 93, 124, and so on in succession.

Being widely at variance with all existing denominations of coin, its adoption would necessitate the calling in and recoinage of all the gold in France, shown by official tables in the note above mentioned to be 6,561,104,070 francs, or in round numbers \$1,312,000,000, (less the portions recoinced, exported, used in the arts, or lost,) not to mention the wide-spread revolution it would cause in

the coinage of all the other nations. It is safe to predict, that whatever may be urged by enthusiastic theorists, no such unit will ever be adopted by any well governed nation in Europe or America; but, on the contrary, that France, now numbering with her adjacent confederated states more than seventy millions of people, will rest fully content with the gold unit of five francs as now existing, with its necessarily fractional but well known weight of 1,612,90 milligrams, destined at no distant day to become the common centre around which will revolve the united monetary systems of the civilized world.

The proceedings and discussions of the international committee in respect to a uniform coin were much increased in interest by their issuing numerous invitations to the leading friends both in France and England, of a uniform system of weights, measures, and coins, to assist at a "réunion," commencing on the 17th of June and continuing for several days, for open public examination and criticism of the reports and conclusions of the committee, including their report on uniform weights and measures.

At an adjourned meeting, held at the *Palais de l'Industrie*, in the *Champs Elysées*, and over which the Prince Napoleon (Jerome) presided by desire of the Emperor, and with eminent ability, delegations from commercial bodies and international monetary associations in London and Liverpool were in attendance. On this occasion the very important question of abolishing the double standard of money, retaining only gold, was elaborately discussed, and with singular ability and ingenuity, by distinguished French economists holding opposite opinions. On putting the question to the vote of the numerous and intelligent audience, the single standard of gold was adopted by a large majority.

The question of the gold unit then coming up, the English delegates earnestly opposed the proposition of the international committee, adopting as the unit the gold five francs, and urged the substitution of ten francs in its stead, expressing their belief that the government of Great Britain would consent to issue for the purpose a gold coin of that amount to be denominated a "ducat." This substitution was opposed by the undersigned in behalf of the United States, on the ground that their half-eagle, when reduced to twenty-five francs, would be an even multiple of the five-franc unit, but not of the ten; that the dollar, whenever made precisely equivalent and equiponderant to the five francs, would become practically if not nominally the monetary unit, and the actual denomination in which money contracts embracing different countries or distant quarters of the globe would or might be payable; that the more important and higher issue soon would be, not between the five francs and the ten francs as the unit, but between the dollar, decimally and easily divided, and the sovereign (or pound sterling,) not decimally but most inconveniently divided in shillings, pence, and farthings, but which, by that very peculiarity, had hitherto maintained an undue predominance in the money payments of the world. The debate was closed by the Prince president submitting the question to the vote of the meeting, which resulted nearly unanimously in favor of the unit of five francs.

It is proper to add that the government of Great Britain was not represented, as such, at this reunion, nor in any discussion at any previous meeting of the international committee, but duly appeared by accredited delegates at the international monetary conference.

The advocates of a uniform coin cherish the belief that the government of the United States is not to be discouraged or discomposed by the temporary delay or hesitation of any government in Europe to participate in the wide-spread work of monetary unification, destined, sooner or later, to become the crowning civic achievement of modern times.

In the earlier agitation of this subject at the international statistical congress, at Berlin, in 1863, the delegate from the United States found a large and influential delegation from Great Britain zealously engaged in the great en-

deavor to unify the money of the world. In the present effort of the assembled nations, "not for a day but all time," the clear good sense and sterling liberality of the English people will not allow their government to lag or linger much behind. The fire but recently kindled is rapidly diffusing its light throughout the world. The far-sighted negotiators of the quadripartite monetary treaty of 1865, though seriously embarrassed by the fallacy of a double standard, now generally discarded, succeeded in establishing a uniform system, not only of gold but of silver, over a large and populous portion of Europe, since increased by the adhesion of the Pontifical States and of Greece; thus including, by a singular felicity, in this newly enlightened region of the globe, the two great seats of ancient civilization. With this wide-spread area extending off from the British channel across Europe to the Mediterranean, and along its classic coast far into the east, the great reform may be greatly advanced by the transatlantic co-operation of the American Union—by God's great providence, undivided and indivisible. Wisely limited by its own organic law to one common coinage between the two great oceans, the world needs only the assent of our own continental republic to give to the gold dollar and its multiples a free, unchallenged circulation, meeting no money-changer or other impediment through the whole breadth of Christendom. The United States may alone complete the golden chain binding in one common monetary civilization the outspread lands and waters of America and of Europe, stretching from the "Golden Gate" of the Pacific over the auriferous "Oberlands" of our wide interior, and across Christian Europe to the western bounds of the Ottoman empire. To widen and extend still further this majestic belt, to embrace in the same great measure of civilization the residue of Europe with the wide extent of Asiatic Russia has been among the leading aims of the international monetary conference.

A detailed statement of the proceedings and conclusions of that assemblage, and also of the action of the international committee in respect to uniform weights and measures, will be furnished in further and separate communications from the undersigned to the Department of State.

With high regard, your obedient servant,

SAMUEL B. RUGGLES,

*United States Commissioner and Delegate, &c., &c., &c.*

HON. WILLIAM H. SEWARD,

*Secretary of State, &c., &c., &c.*

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No. 1.

*M. de Parieu, vice-president of the council of state, to Mr. Ruggles.*

[Translation.]

COUNCIL OF STATE, CABINET OF THE VICE-PRESIDENT,

*Paris, May 7, 1867.*

SIR: I have been considering what you did me the honor to mention to me the day before yesterday, namely: your opinion that the United States of America might bring their gold dollar to the shape, weight, and alloyage of our five franc coin, on the condition on our part that we would coin twenty-five-franc pieces which would be current in your public offices, banking institutions and monetary transactions, and considered as five-dollar pieces, while, in return, the American dollars and their multiples would be current at the rate of five francs for the dollar in the public offices of France and its monetary confederates.

I, personally, look upon this combination as being a very happy development of the monetary convention I had the honor to sign, by authority of the Emperor, on the 23d of December, 1865.

Ex Doc. 14—2

If you would have the kindness to shape in writing the propositions you might intend to submit personally in this sense to the government of Washington, I would make use of your letter to induce the action that might be in my power with respect to fixing the opening and the course of the announced international conference.

It might even be possible that I should have the opportunity to mention the matter to the Emperor, whose views I have gathered on this point some two months since, and which were very favorable to an arrangement similar to the one of which you have given me an outline.

In case you should go to America and it should please you to deliver to Mr. McCulloch some of our publications on the subject, I would very gladly hand them to you before your departure.

Accept the assurance of my most distinguished consideration.

E. DE PARIEU,

*Vice-President of the Conseil d'Etat, Member of the Institute.*

SAMUEL B. RUGGLES,

*Vice-President of the Commission of the U. S. of America*

*to the Universal Exhibition, Paris.*

No. 2.

*Mr. Ruggles to M. de Parieu.*

PARIS, May 9, 1867.

MONSIEUR: I beg respectfully to acknowledge the receipt of your important note of the 7th instant in relation to a proposition to be transmitted to the government at Washington for a unit of money common to France and the United States.

Such a step, in advance of the conferences of the special committee or commission appointed soon to meet on the subject in question, would seem to fall, if not beyond my present powers, at least within the range of the permanent duties of the diplomatic representative of the United States.

After proper consultation with General Dix I shall hasten to answer your note more at length.

Tendering you the assurances of my highest consideration, I remain, very respectfully,

SAMUEL B. RUGGLES,

*Vice-President and Commissioner to the Paris Exhibition,  
specially charged with the subject of weights, measures, and coins.*

Monsieur DE PARIEU,

*Vice-Président du Conseil d'Etat, &c., &c., &c.*

No. 3.

UNIVERSAL EXPOSITION OF 1867.—COMMITTEE OF WEIGHTS AND MEASURES  
AND OF COINS.

The committee, considering that the adoption of a uniform system of coin presents advantages of convenience and economy in the regulation of international exchanges so evident, that it commends itself to every enlightened government; considering, furthermore, that such a measure cannot be realized without the sacrifice by many peoples of their old and customary instruments of trade, and that their interest requires this change should be gradual and con



tinuous, and therefore that the first steps of the transformation should be as simple as possible and disembarrassed of all incidental complication, therefore submit the following propositions:

1st. The first condition to be fulfilled is the adoption of an identical unity in the issue of their gold coins by the different governments interested in the question.

2d. It is desirable that such coins should everywhere be struck at the standard of nine-tenths.

3d. It is desirable that every government should introduce among its gold coins at least one piece of the same value as a piece in use among other interested governments, so that there may be a point of common contact in all the systems, and therefore each nation should endeavor gradually to assimilate its monetary system with that which may be chosen as a uniform basis.

4th. The series of gold coins now used in France having been adopted by a large portion of the people in Europe, is recommended as a basis of the uniform system desired.

5th. Considering that the most important of the monetary units, by a fortunate and accidental circumstance, can be adapted to the French gold piece of five francs, by slight changes, that piece would be most suitable as a basis for a monetary system; and coins struck upon that basis would become the multiples of that unity as soon as the convenience of interested nations would permit.

6th. It is desirable that the different governments determine that the coins struck by each nation, in conformity with the uniform system proposed and agreed upon, should pass as legal tenders in all those countries.

7th. It is very desirable that the system of two different monetary standards should be abolished wherever it still exists.

8th. It is very desirable that the system of decimal numeration should be universally adopted, and that the coins of all nations should be of the same standard and form.

9th. It is desirable that governments should agree to adopt common measures of control, so as to secure the integrity of coins in their issue and in their circulation.

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#### No. 4.

#### *Report of Baron de Heck.*

#### UNIVERSAL EXPOSITION OF 1867.—COMMITTEE ON WEIGHTS AND MEASURES AND ON COINAGE.

#### *The unification of coinage.*

The inconveniences which result from the diversity of monetary systems exceed even those growing out of the diversity of the systems of weights and measures. These are confined to the trouble and loss of time occasioned by the tedious calculations required to pass from one system to the other; still, the objects which are weighed or measured continue the same, and may be made use of anywhere. In the case of coin, on the contrary, besides similar calculations of allowance which are necessary, the objects themselves—that is, the coin—lose a portion of their value in passing from one country to another.

The causes which render the diversity of coin more troublesome than that of weights and measures have, as a consequence, that it is more difficult to effect a unification of the former than of the latter, because it is required to change not only the measure of the different coins but also the coins themselves; so that the change will involve a far more considerable expense, and is likely to affect much more the habits and prejudices of the different people.

For the reasons just stated, the efforts for the unification of money were commenced at a later hour and have progressed with less vigor than those made for the unification of weights and measures. And yet the various assemblies—the different statistical conventions, international associations, the commissioners and jurors of universal expositions—have all pursued the double purpose, and they have made very satisfactory progress, considering the great difficulties which they had to overcome.

On the 23d December, 1865, France, Italy, Belgium, and Switzerland signed a treaty for a monetary convention for the entire extent of their different territories. Negotiations have already been opened by the Papal States and Greece to join the convention. Austria, as well as Spain, Portugal, Roumania, and even the United States of America, are on the point of doing likewise; and, at the moment of writing this report, an international monetary commission, convened by the initiative of the imperial government, and presided over by his imperial highness the Prince Napoleon, who has also deigned to accept the presidency over our informal conferences, has terminated its labors for establishing the basis upon which is to be achieved a unification of the different coins.

The committee on the unification of weights and measures and of the coinage, appointed by the imperial commission of the Universal Exposition, had been for a long time engaged in its labors, and had concluded them by a resolution also in favor of unification, when the international monetary conference first commenced its deliberations. These two bodies acted in entire independence of each other; with the exception of three or four persons, they were each composed of different members, and yet they both arrived at the same conclusions, with a simple difference of phraseology. This circumstance certainly bears most eloquent testimony to the truth and force of the ideas advanced, and to the influence which they have already exercised over the men of science, finance, and administration of all nations.

It cannot be doubted that the universal unification of coins, by creating a common medium of circulation, constitutes one of the most effective means for the development of general commerce. Such a medium, adopted by every state and individual, saves the loss of time and the trouble caused by the computation to which it is constantly necessary to resort to ascertain the precise value of the different coins; it reduces to a minimum the rate of exchange, that painful burden to commerce; it obviates the losses from exchange of money, to which the arts and manufactures and not less travellers are subject; it increases the utility of money, and thereby even its value; it diminishes the needs of circulation, and tends finally to an immediate and radical cure of the crises which spring up in commerce by the accumulation of money at one point and its absence at another.

The idea of a unification of the coins is so elevated and the purpose so useful that, whenever a favorable situation renders its adoption possible, no progressive people, desirous of entering upon the great and fruitful road of universal commerce, can remain indifferent or reject it, unless from motives of the last importance.

With a view to the unification of coins, the committee has drawn up nine propositions, which have been submitted to the discussion of the informal conferences. The following draught was almost unanimously agreed upon by the members present at the conferences:

The committee, considering that the adoption of a uniform money system presents advantages so evident, as well in point of convenience as of economy in the regulation of international exchange, that it recommends itself to all enlightened governments; considering, further, that this measure cannot be realized unless a great number of people sacrifice their former and deeply-rooted

mediums of traffic; that it is necessary to their interest that the change should be made gradually and in a continuing degree, and that, therefore, the first bases for it ought to be as simple as possible and disembarrassed of all unnecessary complication, offers the following propositions:

1. The first necessary condition is the adoption, by the different governments interested in this question, of a unity in the issue of their gold coins.

2. It is desirable that these coins should be everywhere struck at the standard of nine-tenths.

3. It is desirable that each government should introduce among its gold coin at least one piece of an equal value to that of some one piece in use by the other governments interested, in order that there be between the different systems one point of common contact, from which each nation may labor toward a gradual assimilation of its system of coinage to that which might be chosen as a uniform basis.

4. The series of gold coin now in use in France, having been adopted by a large part of the population of Europe, recommends itself as a basis for the uniform system sought after.

5. Considering that, by an accidental and fortunate conjuncture, the more important of monetary units can adapt themselves to the French five-franc gold piece, with the necessity of but slight alteration, that piece would be the most expedient as a basis for the monetary system, and the coins struck upon that basis would, as soon as the convenience of the interested nations might permit it, become the multiples of that unity.

6. It is desirable that the different governments determine that the coins struck by each nation, conformably to the uniform system proposed and agreed upon, should pass as legal tenders in their respective countries.

7. It is extremely desirable that the system of two different monetary standards should be discontinued wherever it still exists.

8. It is extremely desirable that the decimal scale of numeration be universally adopted, and that the coins of the different nations have the same standard and form.

9. It is desirable that the governments agree to adopt a common regulation for stamping, in order to preserve the integrity of the coins, as well in their making as during their currency.

We take the liberty to add to these propositions some explanations:

*Propositions 1, 2, and 3.*—There are different methods by which a unification of the coins may be effected, all, however, not having the same merit, especially when considered with a view to their practical value. For instance, the efforts might be limited to creating everywhere a coin of the same intrinsic value—that is to say, of a similar weight of fine gold or silver, without regard to a unity of the weight to be employed, to the standard of the piece, or to its form. In this manner a theoretical uniformity would doubtless be achieved, but by no means a practical one. It is by reason of weight and form that coin is received or declined in circulation. It were almost impossible to insure the reception, at the same value, of coins differing entirely in weight and form; moreover, if the coins were to have neither the same unity of weight nor the same standard, there would always exist a difference between them, especially on account of the irrational analogy between the diverse unities of gross weight. These differences would be small, no doubt, but always sufficiently considerable to prevent the limits of allowance appointed for the reception of coins which have not the full weight or standard from continuing the same, and, therefore, coins still good in one country would incur the danger of not being so in another, a circumstance which would to a certainty hinder the international circulation of coins.

Another system would consist in creating in the countries which should adhere to the monetary union, some coins based upon the same unit of weight and standard,



yet wholly different in value ; for instance, five, ten, and twenty francs pieces in one country, and pieces of four, eight, and sixteen francs in another.

Of course the international circulation would then be easier than it is to-day, but the unification would not yet exist ; besides, the labor and the expense of recoinage remaining the same, if a more perfect coincidence or similarity is to be attained, there is no doubt that it would be preferable to obtain it at once.

Finally, an absolute unification can be admitted, that is, the identity of all coins, whether current or fractional. But no one can dispute the fact that this unification is impossible at present. The interests, customs, and prejudices of nations are too much opposed to it. The principal object of the unification of moneys is to facilitate and to increase international commerce, which requires non-fractional medium. It is from these coins that the prices of merchandise and the rates of exchange are regulated, while fractional moneys have really but a local utility.

The neighboring countries alone are interested in having identical coins of subdivisionary money, but then that identity can easily be effected by special conventions, without the participation of the universal unification. Thus, if the different nations have the same standard of fineness and weight for their money, and thereby facilitate the comparison of one coin with another, it will suffice to have but one or two identical coins between the two countries. The perfect assimilation of the systems may be reserved for the future. Such is the meaning of the three first propositions.

*Propositions 4 and 5.*—Gold coin alone can serve as international money. Gold being in fact more portable than silver, and the loss in exchange very small, it is owing to these advantages that it is better adapted than silver for business transactions, and transmission from one country to another, securing protection on that account against a monetary crisis, and permitting the reduction of exchange to a minimum. Among the gold coins of the different nations, those only of France will be taken as a basis for the desired system ; inasmuch as having been already adopted by seventy millions of persons, and perhaps in the present year will be accepted by one hundred millions, as much on account of their decimal standard as for the relation, though a little complicated, existing between them and the metrical units, (there being actually 155 pieces of 20 francs in a kilogram.) They also correspond to the system of weights and measures recommended for universal adoption by so many authorities.

In the committee, as well as in the informal conferences, there have been some persons, it is true, who proposed to adopt a monetary system entirely new, re-establishing for the gold coins the simple and immediate relation to the metrical units established by organic laws for silver coins. It is their idea that a gold coin of five grams weight, and of nine-tenths fineness, should be the monetary unit.

Without overlooking the scientific merits, in some respects, of such a system, the committee and the conference have not hesitated for an instant to decline giving it their adhesion. Only a system already adopted by a great majority could have any chance of being generally received. The proof of this can be seen in the monetary convention of December 23, 1865, in the recent adhesions to that convention, and in the vote of the international monetary conference.

An entirely new system could not be accepted by nations already possessing the French system, with greater chance than the present for adoption by other nations.

Moreover, the present having small units, such as five and ten francs, could easily be substituted for those of other nations, as, for instance, the English sovereign, the American dollar, the Austrian florin, &c., which differ but little from one or the other of these French units. That advantage would not exist with the proposed coin of five gold grams of nine-tenths fineness. That coin really would have a value of fifteen francs, fifty centimes, which has no analogy

whatever with the values of present coins, and which would be a common factor too great to arrive at an equation.

The same reason has also induced the committee and the conference to select as a common factor the five-franc piece, thus intimating that all the contracting governments will coin no other gold pieces than those of five francs or its multiples. To avoid misunderstandings, it must be added that the committee never desired to require the coinage by the governments of pieces of five francs rather than of ten francs or any other multiple of five francs.

The committee thinks that these observations will serve as an explanation to the propositions 4 and 5.

*Proposition 6.*—Should the preceding propositions be universally adopted, there nevertheless would not be a complete community of moneys among the different nations. In order to reach this end of unification, it would still be necessary that the coins struck by any nation according to the uniform system should be a legal tender among all the other nations of the union. This requirement is set forth in proposition 6. Perhaps it would not be judicious in the beginning to recognize as common coins all which are struck by the different nations, but only some of them; perhaps, also, it will be sufficient to accept their admission in the depositories of public moneys, without imposing the legal and compulsory tender.

The committee, however, has deemed it proper to propose what would be most favorable to the development of international commerce.

*Proposition 7.*—The community and identity which the committee endeavors to establish are limited to coins of gold. From this the conclusion might be drawn that from the opinion of the committee the states in the union would have the right to maintain silver coins by the side of those of gold, and equally a legal tender; in other words, that they will be able to preserve or introduce the double standard. The seventh proposition is intended to avoid that inference.

The object of the monetary union is not only to induce the different nations to strike identical coins, but it is also necessary that these should enter into universal circulation, and that their intrinsic value should be scrupulously preserved. This could not occur under the system of the double standard of gold and silver, that is to say, in giving the same unlimited right of tender to coins both of gold and silver.

These two standards can be admitted without difficulty when one of these two kinds of coins is the principal and the only one, having a legal and unlimited currency, while the other is simply fractional, (change money,) having a legal currency only for small payments, or when it is optional or accepted by the agreement of the party, and at the price fixed by the rate of the money market. In that case the two kinds of money are not in opposition; on the contrary, they may exist at the same time, and even benefit the circulation.

By giving legal currency both to gold and silver coins there would be constant fear of displacing one or the other. What is still less admissible is to establish a permanent and invariable ratio between gold and silver, as has taken place in France, in the United States, and in some of the South American republics.

The relative value of gold to that of silver fluctuates and varies from one market to the other in accordance with the demand and supply. Sometimes one, sometimes the other, of these two metals—that of which the market value is higher than the legal rate—will necessarily disappear from the circulation, to be exported or recoinied, and thus the coins of the depreciated metal alone remain. It moreover follows that the coins of the better alloy and of the greater intrinsic value first disappear, and the others which are below the standard or the legal weight remain in circulation.

These are not idle or theoretical fears: the experience of France and in all the countries having the double standard has demonstrated their reality. Before the discovery of the rich mines in California, in Australia, in the north-west of the United States, and in the British North American possessions, gold

having a higher market price than the legal rate, the coins of that metal disappeared from circulation, and could only be obtained at a premium.

After these discoveries, on the contrary, gold having depreciated below the legal rate, it was then the turn of silver to disappear. All the masses of silver which the Bank of France had sought to accumulate at a great expense to obviate that result were soon exhausted. The retail business suffered very much, and finally no other remedy was found but that of coining gold pieces of five francs, and silver change of .835 fine.

In the South American republics which had retained the double standard of the Spanish system, the uneasiness occasioned by the influx of gold was still greater. Silver rapidly disappeared, and was replaced only with coins more alloyed or by a depreciated paper currency.

The monetary union would be only apparent if every nation were able to replace at any time the coins of the union by others, or to diminish the weight agreed upon by the union, and that would certainly happen under the system of the double standard.

Moreover, speculations in coins, which the unification seeks forever to prevent, would never cease, and would increase in proportion to the extent of the union. Therefore the proposition seven declares that the monetary system of the double standard must be abandoned where it exists.

*Proposition 8.*—The proposition eight requests anew that the coins of every nation should have the same standard, but it adds that they must also have the same form. The form is given by the dimensions and by the stamp. As all the actual coins are round, and as from the preceding propositions the coins of the same value must be of the same weight, the identity of the dimension is given by that of the diameter.

As for the stamp, the various governments will always be at liberty to issue their coins with the effigies, emblems, and denominations they most prefer; but it would be useful to add upon the piece the relation existing between its value and the five-franc piece accepted as the basis of the system. Perhaps the appellation of "money (or coin) of the union" might be engraved upon it.

The proposition eight recommends also the decimal enumeration for the same reasons which induced its adoption for weights and measures.

*Proposition 9.*—Nevertheless, the monetary union would not prove to be a benefit, but rather a misfortune, if, by any vicious or careless process in the coining or in the issue, coins having neither the exact weight nor fineness should be introduced into commerce. An active speculation in the coins, and a corruption of the whole system, would inevitably follow. To prevent such a misfortune, the governments must agree upon some common measures of control and precaution, to guarantee the integrity of the coins. It is that object which the ninth and last proposition of the committee seeks to establish.

If the committee has not entered into more detail in respect to these measures of control, it is owing to its desire carefully to abstain from interfering with matters of mere regulation between the governments which may adhere to the monetary union.

The committee, in perfect accord with the conference to which the propositions were submitted, thinks that it has proved sufficiently the utility and the necessity of the universal monetary union, and established the principles upon which it should to be founded.

L. MATHIEU,

*President of the Committee, Member of the French  
Institute, and of the Bureau of Longitudes.*

CH. BARON DE HOCK,

*President of the Sub-Commission on Coins, Reporter, Private  
Councillor to his Majesty the Emperor of Austria,  
and Member of the House of Lords.*

*Mr. Ruggles to Mr. Seward.*

[Extract.]

PARIS, *July* 12, 1867.

SIR: The necessary delays which have been experienced in accurately preparing and revising the proceedings of the international committee on weights, measures, and coins, which are not even yet completed; and also in reporting and printing the more formal proceedings and discussions of the international monetary conference, more directly governmental in its constitution, still prevent me from furnishing the Department of State with a full and continuous report in chronological form and order.

The printing, however, of the *procès verbaux* or full reports of all the proceedings and discussions of the international monetary conference was completed yesterday, and I hasten to transmit a copy herewith to the Department of State.

It will be seen that the action of the conference, though preliminary in form, practically points distinctly to a final result summed up in the five points fixed as "the basis for ulterior negotiations," stated at the seventh page of the seventh meeting of the conference.

Copies of all the proceedings thus printed will be formally communicated to the governments of the nineteen different nations represented by delegates in the conference.

It will also be seen that the 15th of February next is fixed for a further meeting at Paris, and the reception of responses from the different governments. The 15th of May was proposed and earnestly urged on the part of the United States, to allow sufficient time for full discussion in the Congress to meet in December next, but a much earlier day having been earnestly insisted on by several of the continental nations, the 15th of February was at last adopted as a compromise.

It is hoped and believed that the proposed establishment of the gold five francs as the "monetary unit," to be practically identical in weight and value with the American gold dollar, when fully understood in its practical operation, and especially its consequence in the coinage of a French gold piece of twenty-five francs to circulate through the world side by side with the American half-eagle, will be regarded with favor by the government and people of the United States.

I have the honor to remain, with high respect, your obedient servant,

SAMUEL B. RUGGLES,

*Delegate of the United States of America  
in the International Monetary Conference.*

HON. WILLIAM H. SEWARD,

*Secretary of State, &c., &c., &c.*

[Translation.]

OFFICIAL REPORTS OF THE PROCEEDINGS OF THE INTERNATIONAL  
MONETARY CONFERENCE.

FIRST SITTING.

MONDAY, *June* 17, 1867.

His excellency Marquis de Moustier presiding.

Were present—

For Austria: His excellency Baron de Hock, privy councillor, member of the House of Lords

For the Grand Duchy of Baden : Baron Schweizer, envoy extraordinary and minister plenipotentiary of the Grand Duchy at Paris ; Dietz, privy councillor, commissioner general of the Grand Duchy to the Universal Exposition.

For Bavaria : Messrs. De Hermann, councillor of State ; De Haindl, director of the mint.

For Belgium : MM. de Fortamps, senator, director of the Bank of Belgium ; Stas, member of the Royal Academy, commissioner of coinage.

For Denmark : Count Moltke Hvitfeldt, envoy extraordinary and minister plenipotentiary from Denmark at Paris.

For the United States : Mr. Samuel B. Ruggles, commissioner to the Universal Exposition.

For France : His excellency Marquis de Moustier, minister for foreign affairs, president of the conference ; MM. de Parieu, vice-president of the council of state, member of the institute, vice-president of the conference ; De Lavenay, president of the section of finance in the council of state ; Herbet, minister plenipotentiary, director in the department of foreign affairs ; Dutilleul, director in the department of finances.

For Great Britain : Mr. Thomas Graham, director of the royal mint ; Mr. Rivers Wilson, attached to the treasury.

For Greece : M. Delyannis, envoy extraordinary and minister plenipotentiary at Paris.

For Italy : MM. the Chevalier Artom, councillor of the legation of Italy at Paris ; F. Giordano, inspector of the royal corps of mines, and commissioner to the Universal Exposition.

For the Netherlands : MM. Vrolik, former minister of finance ; Mees, president of the Netherlands Bank.

For Portugal : MM. the Count d'Avila, peer of the realm, envoy extraordinary and minister plenipotentiary of his Most Faithful Majesty at the court of Madrid, commissioner general to the Universal Exposition ; the Viscount de Villa Major, peer of the realm, member of the jury for the Universal Exposition.

For Prussia : MM. Meinecke, superior privy councillor of finance ; Herzog, privy councillor of the department of commerce, commissioner to the Universal Exposition.

For Russia : M. de Jacobi, privy councillor, member of the Imperial Academy of Sciences at St. Petersburg.

For Sweden and Norway : MM. Wallenberg, member of the first chamber of the Swedish Diet, director of the Bank of Stockholm ; Broch, member of the Storting of Norway, president of the central commission of Norway for the Universal Exposition.

For Switzerland : MM. Kern, envoy extraordinary and minister plenipotentiary at Paris ; Escher, director of the federal mint.

For Turkey : His excellency Djemil Pacha, ambassador extraordinary and plenipotentiary from the Sublime Porte.

For Wurtemberg : MM. Baron de Soden, privy councillor of legation.

M. Clavery, "redacteur" of department for foreign affairs, was charged with the functions of secretary, associated with M. Roux, attached to the vice-presidency of the council of state, as assistant secretary.

The international monetary conference met for the first time on Monday, 17th June, 1867, at half-past nine o'clock, at the hotel of the department of foreign affairs, under the presidency of his excellency the minister for foreign affairs.

His excellency the Marquis de Moustier expressed to Messrs. the delegates the regrets of his excellency M. Rouher, who being obliged to preside at that very time in the imperial commission of the Universal Exposition, could not assist at this sitting. He then opened the labors of the conference by pronouncing the following allocution :



"The approximations which the late commercial reforms have wrought between the economic interests of nations ought to result in causing to be appreciated more earnestly than in past time the advantages which would be derived from the unification of coinages. To substitute instead of the variety of monetary types actually in use, metallic coins struck in accordance with uniform regulations, and placed beyond any variations of exchange, would, in effect, be to remove one of the most serious obstacles to the development of international relations. Thus, when in 1865 the delegates of France, Belgium, Italy, and Switzerland had succeeded in forming between those four, a real monetary union, the thought of a more extended association naturally presented itself to their intelligence; thence came the right of accession opened to other countries by a special clause in the convention of December 25, 1865; thence the wish put forth by the commissioners, that studies should be undertaken, in concert, among all civilized states on the question of uniformity of coinage.

"No period could be more favorable to the realization of this wish than that of the Universal Exposition; the government of the Emperor hastened to avail of it, and the acceptance which various governments have pleased to extend to these overtures, have shown that the importance of the problem to be solved was universally recognized.

"The dispositions thus manifested from the outset are so much the more precious, as it was impossible to dissemble the difficulties of the task which the members of the conference have to accomplish. Those difficulties are of diverse nature, and to remove them it is important, beyond all, that each state, in view of the great interest it seeks to satisfy, should seek, without exclusive opinions, the best solution.

"The French government is, moreover, pleased, gentlemen, to recognize in the choice of yourselves, on the part of your government, a fresh pledge of the solicitude which, abroad as well as in France, is entertained upon the question submitted to the conference. A study of such delicacy and so complex could not be confided to an assemblage which could present a more complete combination of knowledge required either in the conduct of great affairs, in the management of important financial institutions, or in technical operations.

"The sittings, therefore, of the international convention open under the happiest auspices, and we may look to the result with confidence.

"I could have desired," added the minister of foreign affairs, in closing his remarks, "to have been able to participate with assiduity in your deliberations, but I have reason to fear, as also has the minister of state, that our many occupations will not permit us.

"In our absence M. de Parieu, vice-president of the council of state, will cheerfully direct the labors of the conference. I need not, sirs, attest to you the pre-eminent competency of M. de Parieu; you are aware that he has made the monetary question the object of the profoundest study, and you are acquainted with the remarkable writings in which he has published the results of his researches. The skilful direction which he has already given to the preliminary discussions of the convention of 1865 is the guarantee of a like ability in this new conference."

M. de Parieu, expressing his thanks to the minister of foreign affairs, invoked the kind co-operation of the members of the conference to second him in the task which might be devolved upon him.

He then proposed to confide to a sub-committee the charge of preparing heads of inquiry, which would serve as the basis of deliberations. The sub-committee might be composed of seven persons, and should represent the three groups into which the different states are divided, in a monetary point of view, as having respectively adopted the gold standard, the silver standard, or the two standards.

His excellency Djemil Pacha suggesting that on the occasion of the last telegraphic conference, held at Paris, a sub-committee had been charged with pre-

paring not merely heads of inquiry, but a complete plan for settlement, asked if it were not possible to proceed in that way on the present occasion.

M. Herbet remarked that at the time of the telegraphic conference all the states were represented by their diplomatic agents, assisted by special agents, principally heads of the administration of the telegraphs of their respective countries, and in some sort clothed with power to elucidate numerous questions of detail and the technical difficulties connected with the reform which it was proposed to accomplish. The present commission is not composed of like elements, and the members who compose it are present by virtue of delegations which do not establish similar distinctions. M. Herbet, moreover, approved the combination proposed by M. Parieu, adding only that the conference could, if it should think proper, increase the number of members of the sub-committee, perhaps, to nine.

M. Fortamps also assented to the proposition under consideration, as the best way of settling without loss of time the programme of questions to be solved.

Baron de Hock and M. Kern expressed the opinion that it would be convenient to devolve on M. de Parieu and M. Herbet the duty of designating the members of the sub-committee, the number of which might, in case of need, be raised to nine.

On the motion of M. de Moustier, the formation of such sub-committee was directed.

The sitting being suspended for some minutes, was resumed, and M. de Parieu submitted to the conference the names which follow :

To represent the countries which have adopted the gold standard—M. Graham, delegate from England, and M. the Count d'Avila, delegate from Portugal. To represent the countries which have the silver standard—the Baron de Hock, delegate from Austria, and M. Meinecke, delegate from Prussia. To represent the countries of the double standards—M. de Jacobi, delegate from Russia, and M. de Parieu, delegate from France ; finally, as the seventh member, Mr. Samuel B. Ruggles, delegate from the United States, and sole representative of the transatlantic countries.

The sub-committee, thus composed, would furnish all the guarantees of impartiality that were desirable.

M. de Jacobi observed that Russia has only one standard, that of silver.

M. de Parieu answered that this empire finds itself in this respect in the same situation as France. For both countries there is a kind of pre-eminence of the silver standard, but gold is equally a legal tender as silver, and the two metals are received without distinction in payments.

The conference decided that the sub-committee should meet to-morrow at ten o'clock at the council of state, and shall lay before it as soon as possible the proposed heads of inquiry (*questionnaire*.)

The sitting rose at eleven o'clock.

MOUSTIER,  
*President of the Conference.*

CLAUVERY, *Secretary of the Conference.*  
ROUX, *Secretary Adjunct.*

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INTERNATIONAL MONETARY CONFERENCE.—SECOND SITTING.

WEDNESDAY, *June 19, 1867.*

Mr. de Parieu presiding. The sitting opened at ten o'clock. Present, the commissioners who attended at the first meeting, with exception of his excellency Djemil Pacha and Mr. Vrolik, the latter being indisposed. M. Feer Herzog, member of the Swiss national council, takes his place among the delegates. The president informed the conference of a communication from the

ambassador of the Sublime Porte, who, not being able to attend the sitting, has designated Colonel Essad Bey, military attaché of the embassy, to attend the discussions of the conference until the arrival of Mihran-Bey-Duz, member of the grand council of justice and director of the mint at Constantinople, special delegate of the Ottoman government. Colonel Essad Bey was admitted to participate in the labors of the commission.

The minutes of the first sitting being read and adopted, the president addressed the delegates as follows :

"Gentlemen, you heard at your last sitting the words by which the Marquis de Moustier, minister for foreign affairs, president of this conference, expressed to you, with all the authority of his high position, his thanks and the desires of the French government for the success of the labors which you are willing to enter upon with us in search of the proper means of development of a monetary unification, happily undertaken in 1865, with the sympathetic concurrence of M. Drouyn de Lhuys. You have been pleased to charge me with the preparation of a detailed programme for your labors, with the collaboration of six members of your conference, representing the more considerable states in the diverse groups among which the fundamental monetary systems of the world are distributed. It was incumbent on us to set to work, regretting to be deprived of the assistance of so many eminent men who could not be placed on the sub-committee, but whose precious co-operation will not fail us here.

"The '*questionnaire*' (interrogatories) which we prepared for you yesterday, gentlemen, has been distributed to you, and I ask permission to present to you a few brief remarks on the spirit in which it has been drawn up, and on the nature of the questions which may in some sort arrange themselves side by side with those which it includes.

"The monetary systems in use among various nations certainly bear traces of accidental varieties traceable to chance and the former isolation of nations, but it is incontestable that some of these varieties are not altogether fortuitous, but have relation to the economic condition of the countries in which they have been carried into practice.

"In this condition, monetary unifications, long desired, can be realized in our days only in the proportion in which these economic conditions can be approximated, and under which the monetary systems are less widely distant from what I would wish to call their point of maturity. To discern, on the one side, what relates to the circumstances which affect the economic history of nations, and on the other that which is fundamental in monetary science, is now our main endeavor; for if individuals and nations separate on what may rest on arbitrary will or caprice, they easily come together on a true and calm consideration of their situations.

"Notwithstanding this conviction, we have not been willing that all the doctrinal and scholastic questions which pertain to monetary science, a science still imperfect, should be textually laid down in the programme of your labors. They may present themselves incidentally, and, to a certain extent, are tacitly included. The questions we have the honor to submit to you all have a practical character, which we hope will meet your approval, as circumscribing difficulties and perhaps avoiding some idle problems. Allow me, in consideration of the number and the delicacy of the questions which, notwithstanding our reserve, it has been our duty to lay before you, to briefly invoke in advance your patient co-operation.

"The task assigned to us is difficult, as the minister for foreign affairs so judiciously remarked, but in my opinion it is powerfully commended to our efforts.

"The Roman empire had imposed on the ancient world monetary unification. We are assured that in the thirteenth century the religious and commercial ascendancy of Italy made the golden florin current throughout all Christendom. Since that time the accidents of war have occasionally extended the range of



certain monetary systems. An age which, like ours, has already effected so much for the approximation of nations by the community of the material means of intercommunication, and of certain legislative institutions guaranteeing mutual interests, from the suppression of the *droit d'aubaine* down to international conventions for the execution of judgments and the extradition of parties charged with crime; from postal, telegraphic, and revenue conventions down to such as protect literary property; an age, the index of which, adopting the expression of one of the members of this conference at a former meeting, is the increasing recognition of the solidarity of the interests of all nations; an age which also honors and encourages the genius of peace, should it not require the peaceful discussion of the means of discharging, by the establishment of monetary unification, its debt to civilization? Permit me then, gentlemen, to count upon your indulgent aid, as you are assured of my devotion and my impartiality in pursuing this great task. If it is not for us to accomplish it immediately, I doubt not we are called on to prepare what will be useful in the future."

After this address, which was received with marks of unanimous assent, the "*questionnaire*," (or interrogatories,) prepared by the sub-committee in the following terms, was read to the conference.

#### *Questionnaire.*

1. By what means is it most easy to realize monetary unification; whether by the creation of a system altogether new, independent of existing systems—and in such case what should be the basis of such system—or, by the mutual co-ordination of existing systems, taking into account the scientific advantages of certain types, and the number of the populations which already have adopted them? In this case, what monetary system should be principally taken into consideration, reserving the changes of which it might be susceptible for making it perfect?

2. Is there a possibility of establishing at this time identities or partial coincidences of monetary types on a wide scale, on the basis and with the condition of the adoption of the silver standard exclusively?

3. Is there, on the contrary, a possibility of attaining this result on the basis and with the condition of the gold standard exclusively?

4. What of the like result in proceeding on the basis and with the condition of the adoption of the double standard, with the establishment of an identity of relations in all countries between the value of gold and the value of silver?

5. In case of a negative on the three preceding questions, would it be possible and beneficial to establish identities or partial coincidences of monetary types on an extended scale on the basis of silver coins, leaving each state at liberty to simultaneously regulate the standard of gold?

6. Would it be more possible and more beneficial to establish identities or partial coincidences of gold coins, leaving each state to regulate the standard of silver?

7. On the hypothesis of the affirmative solution of one of the two preceding questions, and following the distinctions which that alternative imports, would the advantage of internationality which coins of the metal taken as the common standard would require, be a sufficient guarantee for their being kept in circulation in each state, or would it be necessary beyond that to stipulate, either for a certain limit in the relation between the value of gold and that of silver, or for the case where the international coins would run the risk of being completely expelled from circulation in some of the contracting states?

8. Is it necessary to the success of monetary unification to constitute at this time a unity everywhere identical for metallic composition, weight, and denomination; and in that case, upon what basis?

9. Would it be of advantage, in case gold should be adopted as the international metal, that the types of that money, determined by the monetary con-

vention of the 3d of December, 1865, to promote unification, and consequent reciprocity, should be completed by new types; for example, by coins of fifteen francs and of twenty-five francs? In this case what should be their dimensions?

10. Would there be an advantage, under certain hypotheses—for example, in case of the affirmative on questions three or six—to regulate by common obligations certain points relating to silver coins or base coin, either in regard to their composition and standard or their limits of admission in payments, or to the quota of issue of each?

11. Is it practicable to define precisely the means of control which could be established for securing exactness in the striking of the common types of international money?

12. Aside from immediate practical possibilities, the object of the preceding questions, could any ulterior solutions be attained by doctrinal decisions, and on grounds of principle, with a view to increase in the future the approximations already effected in the past two years in Europe, or that could be immediately realized in this monetary matter?

The president calls for discussions of the totality of the *questionnaire*. No one claiming the floor, the draught of the *questionnaire* was adopted, and the investigation of the first question was commenced.

Mr. MERS declared that if he could admit the immediate realization of the unification of coinage, he would give the preference to the first of the two alternatives. In this case, in effect, the creation of a new system, avoiding all national susceptibilities, would seem to him the best way to attain the end. But it does not seem possible to him that complete uniformity can be speedily obtained, and therefore he considers the second alternative as being alone of a nature to produce actual practical results.

The COUNT D'AVILA did not hesitate, either, to place himself on the second alternative. If the different states found themselves obliged by the establishment of a system altogether novel, to change simultaneously their monetary regulations, the difficulties of the attempt would be multiplied in such manner that they would become insurmountable. In respect to the existing systems which should especially be taken under consideration, the Count d'Avila indicated the convention of December 23, 1865. The points then essential for solution, and for the adoption of which the delegate from Portugal was ready to vote, were, 1st, one standard only; 2d, the gold standard; 3d, reduction of the pound sterling to twenty-five francs; 4th, reduction of the American dollar to five francs; 5th, the adoption of the gold coin of five francs as the monetary unit.

On these bases an agreement would be easy between France, England, and the United States, and would sooner or later rally also the other countries. It would only be necessary that there should be identity of weight and of standard between the pieces—that the fineness of the English coin should be brought from 11-12ths to 9-10ths. The last named standard tends more and more to prevail as to gold; it has been adopted by Spain for coin of this metal and for the silver dollar, which is the basis of the Spanish system, but the coinage of which has ceased since the standard of other silver coinage has been lowered to .810. In Portugal, where, as in England, coin was made 11-12ths fine, and where the mintage at this standard has been very restricted, the Count d'Avila thought the government would doubtless consent to a recoinage, the cost of which would be covered by the lowering of the standard.

What was more essential in the view of the delegate from Portugal was, that an agreement should take place between England, France, and the United States. This example would have a decisive effect. In any event, if the commissioners from the different countries would indicate at this time in a summary manner, as he has himself done, their views on the project of arrangement, the Count d'Avila thought nothing could be more adapted to hasten, as well as to elucidate, the progress of the discussion.

Mr. FORTAMPS could have wished that the question of standard was first established. It is an initiative point which it is convenient to settle at once, in order to base the deliberations on foundations as precise as possible.

Mr. HERBERT remarked, that by reason even of the importance of this last question, there would be inconveniences in bringing it at once under discussion. It would be of advantage if delegates from the same state could come preliminarily to an understanding among themselves, and ask, if needful, instructions from their governments. The absence of the Spanish delegate, who is shortly looked for, is so much the more to be regretted, because Mr. José Polo would bring a large experience to bear on these subjects; at present, therefore, it might be well to confine ourselves to an exchange of general views on this point.

M. DE PARIKU explained that the first question had been framed in such manner as to embrace an order of ideas much more extensive than the question of standard. The alternatives therein presented are not pure hypotheses: the establishment of a new system having for unity the gram of gold; the generalization of the system having for basis the standard of silver, which, according to the Brussels committee, whose views have been communicated to the conference, should be five francs; unification by means of approximation between the systems in operation; all these doctrines have been supported in the newspapers or in special publications.

BARON DE HOCK shared in the opinion of Count d'Avila on the impossibility of bringing about the acceptance of an entirely new system, and completely breaking up inveterate habits. In Germany we find in respect to this matter a striking example: there was a wish to introduce in the German states a coin which was not correspondent with any existing types. Although it was the most rational, and accorded perfectly with the metric system, it could not find its way into calculations. The gold crown only passed from the mint into the melting-pots of the goldsmiths. It is, as expressed in the second sentence of the first question, by the mutual co-ordination of existing legislation, by taking into account the scientific advantages of certain types and the number of populations which have adopted them, that a solution may be found. Among the systems actually in vigor, which is the one which would serve most advantageously as the basis of this approximation?

It would be, said the commissioner from Austria, the convention of 23d December, 1865, provided it were to undergo certain modifications, and the new agreement should rest upon the principle of the gold standard exclusively. This metal, which has spread in such considerable amounts through the European market during the last twenty years, would be the most convenient agent for a universal monetary circulation.

M. FERRER HERZOG agreed with Baron de Hock on the fitness of adopting the second alternative proposed in the questions.

There is in France a school, important because of the scientific authority of its adepts, which admits no other monetary unity than metric unity in round numbers; and proposes to take for unit a weight of five grams of gold of 9-10ths fineness.

This theoretic solution would be wanting in one essential quality, that of practicability; at the time we have arrived at, we cannot invent a monetary unit which is not in relation with any type actually existing.

The franc itself had been compelled not to depart too far from the livre tournois in order to make itself acceptable, and, as the Baron de Hock has reminded us, the gold crown, containing ten grams of fine gold and weighing little more than eleven grams, has not been able to get into circulation in Germany because it is not adapted to the florin of Austria, nor the florin of Bavaria, nor the thaler of Prussia. By the very force of things it is a foreign coin, the napoleon, which represents beyond all others the monetary circulation of gold in Germany.

In a word, added M. FEER HERZOG, when the unification of monetary systems is discussed, it is, above all, necessary to inquire whether existing legislations do not present the elements of equation and of approximation. We must take into account the habitudes long ago formed of the great monetary reservoirs already created.

Without doubt, the metric system, in its application to weights and measures, satisfies by its admirable co-ordinations the necessities of practical character, as well as the exigences of theory; but to desire to impose it, coextensively, in all its rigor, in matters of coin, would be to encounter obstacles which mere considerations of practical utility would not have removed.

In the opinion of M. FEER HERZOG, the system of the monetary convention of December 23, 1865, would best assist the equations of the English sovereign and the American dollar, and it would be sufficient to add some improvements, especially in what concerns the standard. Seventeen years ago the question was much discussed in Switzerland, and that country, which then had to choose between the diverse systems in application in the neighboring states, has only had to congratulate herself on having given the preference to that which is actually in force in the confederation.

M. JACOBİ adopted in full the order of ideas developed by M. Feer Herzog. He would have been glad that a relation should exist between coins and the systems of weights and measures, but, in the double view of science and practice, he saw no necessity for establishing such relations to the prejudice of other more important interests. He could not, therefore, regard as serious the reproach cast on the gold coin of France, as having widened the breach in the French metric system, the integrity of which he acknowledged, and in favor of which he had categorically expressed himself on another occasion. The creation of an entirely new coinage was so much the less opportune that he would not let the occasion pass without noticing the agreement, perhaps accidental, but in fact almost complete, which exists between the intrinsic value of the principal French coins and those of Russia, which he represents in this assembly. Thus, the silver rouble coincides very nearly with four francs, the difference not being greater than the limit of the tolerance. In the same way the demi-imperial has a value only fifteen kopeks higher than the twenty franc gold piece.

M. HERMANN replying to a remark of M. de Hock, observed that if the gold crown has not kept in circulation it has been because it was not legal coin and was not received in the public banks.

M. STAS would prefer the establishment of an entirely new monetary system, and that the conference assume as its mission to settle principles and not expedients in practice. To follow the latter course would be to leave traces in snow not to engrave footprints in rock. The one would not create anything durable; on the contrary, it would prepare difficulties; for the future monetary unification will only be reached by first laying down an immovable basis, and in that M. Stas, contrary to the views of M. Feer Herzog, declares himself the partisan of the opinion of the economists, in the scientific point of view as well as in its application. The creation of a system based on a unit of gold of five or ten grams would offer the immense advantage of having it more readily accepted by all nations, as it would avoid all national susceptibility. Doubtless the adoption of the new unit would require the general reminting of all coinage, but this recoinage would bring with it a definitive system sanctioned by science.

The system of equations among the coins of different countries, in accordance with those of the convention of 1865, would also bring about the necessity of recoinage for the countries not parties to that convention. But would this recoinage have the needed immutability? M. Stas did not think so, and added that in this respect he spoke disinterestedly, considering his position as a representative of one of the governments cosigners of the act of 1865; but he looked



at the question from the stand-point of the interests of England and the United States. From England is asked the equation of the pound sterling with twenty-five francs. This coin of twenty-five francs, of itself, will offer certainly some advantages, but what inconveniences will not its divisions produce? The half would be twelve francs fifty centimes, a number already fractional, and therefore inconvenient, and this inconvenience will only increase with successive subdivisions. As for the United States, the difference between the dollar and the five-franc piece renders the equation particularly difficult.

M. STAS added that, in his view, there does not really exist pieces of twenty francs, of ten francs, of five francs, seeing that no piece of twenty francs, for example, is exactly the one hundred and fifty-fifth part of a kilogram. Mathematically speaking, the kilogram cannot be divided into one hundred and fifty-five equal portions. With stronger reason, it cannot be, in the order of material facts. That would not be with a metric unity of gold; and it is only by manufacturing from all coins a new monetary system that we can reasonably hope to arrive at the establishment of a common measure in the values of various countries.

The PRESIDENT asked M. Stas if he speaks in the name of the Belgian government, or if this is his own personal opinion only.

M. FORTAMPS declared that the opinion expressed by M. Stas is shared by the ministers of finance of Belgium, but the Belgian government would not refuse to acquiesce in other propositions which should be adopted by the conference.

M. MEINECKE thought it of prime necessity to adopt as the base of the new system a system already recognized and reduced to practice. He did not pretend to ask the sympathies of the conference in favor of the Prussian monetary system, for he thinks that the standard of gold in the countries which have adopted it cannot be replaced by the standard of silver in force in Prussia only. Prussia, then, must renounce its standard if she wished to rally under a general monetary union. However, Prussia is content with the silver standard; the monetary circulation of which it is the basis is excellent, and there is no urgent reason for introducing there a change so considerable as that which would result from the change of this standard. On the other hand, the difficulty of adopting the gold standard is much greater for Prussia than for any other country. Nevertheless, without having the thought of modifying at this time its monetary system, the Prussian government would not fail to take the matter into consideration if the labors of the conference should aim at establishing a basis for a general monetary arrangement. She would study with care the best means to connect her with it, and when resolutions in this respect shall have been adopted, she would communicate them to her northern confederates, whose concurrence is indispensable, and also to the states of south Germany, her cosigners of the treaty of 1857. M. Meinecke adds that with this reservation he would take part in the discussion, and would give his vote.

M. FEER HERZOG, replying to the remarks of M. Stas, said that the metric system would not probably claim scrupulous respect for its smallest parts. The metre, which is the basis, has not, practically, that sure scientific quantity of length which constitutes its definition. The terrestrial spheroid, according to one of the dimensions on which the metre is calculated, presents irregularities, and there could therefore not be found in the metre itself that mathematical perfection which M. Stas seeks for. Nevertheless, the metric system offers great advantages, especially in the co-ordination of the different magnitudes which it includes, and which facilitate calculations.

It is certain that neither the twenty-franc piece nor the five-franc piece represent a fixed round number of grams, and in this point of view it would not be possible to give of them in grams a mathematical definition. But there is nothing to hinder the definition of the Napoleon by indicating the round number (155) which a kilogram includes, or rather that it should be defined by the

fractionary number of grams which represent its weight, neglecting the decimals beyond the thousandths decimals which practically are of no importance and have only an interest purely scientific. It is not indispensable to the goodness of coin that it should be metrically proportioned.

It has been said it would be necessary to remint the English sovereign. That is a point for discussion. There is between the sovereign and the twenty-five franc piece a minimum difference of twenty centimes only. But this difference is very little beyond the limit of the tolerance; the reminting of the sovereigns would therefore not be of absolute obligation, and it would be possible to keep in circulation the pieces now in use, provided only that the new ones should be coined with the minimum of reduction indicated. M. Feer Herzog adds that as for the objection raised by M. Stas in respect of the United States, he can reply, that according to a letter from Senator Sherman, which had been communicated to him by Mr. Ruggles, member of the conference, opinions are pronounced in America for lowering the dollar value. That country is, therefore, ready, and the objection of M. Stas falls of itself.

In what regards the division of the sovereign, in case the value of that coin should be brought to twenty-five francs, it would not be necessary to have coins of twelve francs fifty cents. The pound sterling would theoretically become to France a multiple of a new monetary unit which would be two francs fifty cents, a unit of which it would be the decuple, and consequently there would be no occasion to apprehend the numerous decimals which would follow the successive subdivision of the sovereign of twenty-five francs, as there would be on the hypothesis of the creation of coins of twelve francs fifty cents and of six francs twenty-five cents.

The Baron DE HOCK observed to M. Feer Herzog that the metre is a unit, not merely scientific but also real; witness the metre kept at the department of justice; the monetary unit might be kept in the same way. He was, besides, of the same opinion with M. Feer Herzog in relation to the division of the pound sterling, and added, that in Austria it is the intention to make coins of twenty-five francs. These coins will bear the name of ten florins, and as for their subdivisions the monetary commission at Vienna, presided over by Baron de Hock, has decided against a coin of twelve francs, fifty cents, and preferred that of ten francs, or four florins. There is nothing to prevent England from doing likewise. The objection of M. Stas, therefore, has not all the weight that he supposed it to have.

M. BROCH was of opinion that monetary unification must be effected, not only in view of the convenience of travellers, but above all for the sake of commerce it would be proper to have an understanding in respect to the subdivisionary coins as well as of gold coin in the interest of the laboring classes. It is essential that the coinage should everywhere offer subdivisions as equivalent as possible, so that the laborer who often has need of a fractional coin may not be the sufferer from variations which might exist in the diverse monetary systems respecting small change, and may be enabled to estimate correctly the real cost of his limited purchases. It is therefore for identities on the whole monetary scale that M. Broch reserved his approval, and not for simple partial coincidences between gold coin.

He declared himself, moreover, for the system previously recognized by the convention of 1865, and thought the tie which connects the gold coinage and the metric system (155 Napoleons to the kilogram) was sufficient, without there being need to create a new system, as M. Stas wishes to do. But it was to be remarked that the standard only of silver is in force in Sweden and Norway, and that, moreover, the commerce of those united kingdoms being principally with Germany, especially Hamburg, their adhesion to a monetary union would of necessity be subordinated to the preliminary adhesion of northern Germany.

The *PRESIDENT*, without contradicting the tendencies of M. Broch, must observe

that they presuppose a preliminary reminting of all the gold and silver coinage actually in circulation in the states which would take part in the monetary union, while by a system of equations the reminting would not bear upon the fractional coins, but only on the large pieces, a distinction which M. Stas has not taken into account.

Mr. GRAHAM, through Mr. Rivers Wilson, replying to the assertion of M. Fœr Herzog that sovereigns actually in circulation might be kept so because of the trifling difference which would separate them from the new twenty-five franc coins, said that, if it be true that the twenty centimes of difference are almost comprised within the limits of the tolerance, it is not the less true that the English government would make it a point of honor not to avail itself of these limits. There would, therefore, be serious inconvenience in leaving in circulation sovereigns of twenty-five francs twenty cents. In case of a new emission of sovereigns reduced to twenty-five francs, it would follow that the people, accustomed to divide by twenty, would call for the piece of twenty francs; thence the necessity for a second recoinage, and, in such case, the abandonment of the sovereign. The immediate adoption of the French system would be preferable.

M. Fœr HERZOG remarked, that if the sovereign be reduced to twenty-five francs, and be divided, we obtain the double of the present shilling and not the franc. He added, that this double shilling exists in fact because it is the English florin, and consequently the reduction of the sovereign would not lead to its abandonment.

Mr. RUGGLES said it would be as impossible to abolish the expression of the dollar in the United States as that of the sovereign in England, but that both might be retained in reducing their intrinsic values. For the sovereign it would be a reduction of only twenty centimes; for the dollar, on the other hand, the reduction would be  $3\frac{1}{2}$  per cent. on its value. The United States were ready to make this sacrifice in view of monetary unification; such was the opinion of the American people, and after the next winter a general reminting of coin, however considerable, might commence. But this reminting must be made now or never, for if we examine the gold coinages of the great commercial nations we find them rapidly increasing. If this progression should continue the time would come when the reminting of the coinage of the United States would become practically impossible in view of the enormous cost of recoinage which would then be necessary. The United States from 1793 to 1849 actually coined but eighty-five millions of dollars in gold; in 1850 and 1851 ninety-four millions; from 1851 to 1866, 665 millions. During this last period of fifteen years France has coined about 955 millions of dollars in gold, and England 450 millions. We thus see that two milliards of dollars in gold, or more than ten milliards of francs, have been thrown into the money market since the discovery of the mines of Australia and California. This considerable mass of coin is increasing daily. It is certainly possible that in the United States, in the fifteen years which are to follow, the coinage of gold may reach the amount of five (5) milliards of francs. In view of such a future the American government would prefer to reduce its monetary unit at once. For that purpose it needs only the passage of a law briefly declaring that "the weight of the gold dollar shall be hereafter  $1^s$  612<sup>m</sup>, .90 in place of  $1^s$  670<sup>m</sup>." Those few words would serve to change the whole monetary system of the United States. But the United States, in thus consenting to recoin its gold now in circulation, would expect that France, on her side, will consent to coin gold pieces of twenty-five francs, in which case monetary unification would at once assume a practical form.

The PRESIDENT expressed to Mr. Ruggles the satisfaction with which the conference had listened to sentiments so favorable to monetary unification as those he had uttered in the name of the United States; adding that, in regard to the wish expressed for the creation of a twenty-five franc piece in France, this



wish had already found its place in the questionnaire, and would be thereafter discussed.

M. HERBET laid before the conference a communication which had been made to him personally by Mr. Graham relative to the coin of Canada, about which there would be a question of recoinage on the basis of the convention of 1865. This was an important communication, and it would be of advantage if Mr. Graham would repeat it to the conference, which could take action upon it.

Mr. GRAHAM replied that nothing had been decided upon in this respect, but as there was an identity of coin between Canada and the United States, if the latter should approximate to the French monetary system, Canada would, of necessity, follow the example.

M. MEES said that he could only consider the first question in a theoretic point of view, and that his vote could not bind his government, seeing that Holland would not, at least at present, be able to conform to any monetary system whatever while surrounded by three monetary systems so different as those which are based upon the franc, the thaler, and the sovereign.

The Count D'AVILA resuming the question of the reminting of the English coin, discussed in succession by M. Stas, Feer Herzog, and Mr. Graham, expressed the opinion that if the pound sterling were reduced to twenty-five francs, the reminting of the English sovereigns, far from being an expense to the treasury, would probably be profitable to it, as the new sovereign would be inferior in fineness to the old. In fact, by reducing the fineness from  $\frac{1}{10}$  to  $\frac{2}{10}$ , there would be a gain of more than 60 milligrams of pure gold for each sovereign. Besides, the adoption of the pound sterling for twenty-five francs would be sufficient, because naturally the subdivisions of the one coin and the other would correspond with each other; for example, there would be natural equations between five francs and four shillings, fifty francs and two pounds sterling, &c.

No one asking to speak, the president proposed to take the vote on the first question, pointing out at the same time the necessity for agreeing preliminarily on the manner of voting, individually or by states.

M. HERBET remarked, that, in conformity with precedents, the vote could only be taken by states; the French government, in fact, on inviting foreign governments to take part in an international monetary conference, left them at full liberty as to the number of delegates who should represent them. If the vote were *per capita*, some states would cast more votes, because their delegates might be more numerous. That is a consequence which could not be admitted. Without having precisely the character of a diplomatic assemblage, the present conference is, however, composed of members who have been furnished with preliminary instructions by their governments, and who should, in consequence, yield their individual opinions, so as to bring forward only those of the states they may represent, and it pertains to the first of the delegates of each state to utter its vote.

The mode of voting laid down by M. Herbert being accepted by the conference, the president put to vote the first paragraph of the first question:

"Is it more easy to realize monetary unification by the creation of an entirely new system, independent of existing systems, and in this case what should be the basis of this system?"

The conference decided unanimously in the negative.

The president then put to vote the first part of the second paragraph of the same question:

"Is it, on the contrary, more easy to realize monetary unification by mutual co-ordination of existing systems, taking into account the scientific advantages of certain types, and of the numbers of the populations which have already adopted them?"

The conference unanimously responded, yes.

The second part of the same paragraph thus framed was then put to vote :

“In this case what monetary system should be principally taken into consideration, reserving improvements of which it might be susceptible ? ”

Upon a suggestion from M. Fortamps, it was understood that the vote to be given did not determine the question of standard. The conference expressed itself unanimously in favor of the system of the monetary convention of 1865, annexed to this procès verbal. Messrs. de Hermann and Baron de Soden stated that all their votes were given subject to reserve in respect of anterior engagements of their respective states.

M. DE PARIEU stated that, in effect, the German states finding themselves mutually bound by the treaty of 1857, their reciprocal engagements do not permit them to act in severalty, except as far as Austria is concerned, which has quite recently freed herself from the engagement.

The examination of the second question was remitted to the next meeting, which was fixed for to-morrow at 2 o'clock.

The sitting was closed at half past twelve.

DE PARIEU,  
*Vice-President of the Conference.*

CLAVERY, *Secretary of the Conference.*

ROUX, *Assistant Secretary.*

#### INTERNATIONAL MONETARY CONFERENCE—THIRD SITTING.

THURSDAY, *June 20, 1867.*

M. de Parieu presiding. The sitting opened at 2 o'clock. Present, the delegates who were present at the second sitting, as well as M. Vrolik, and excepting the Count de Moltke Hvitfeldt.

The minutes of the preceding sitting having been adopted, the president opened the discussion on the questions 2, 3, 4, 5, 6 and 7, which are strictly connected together, and thus framed :

2. Is it possible to constitute at this time identities or partial coincidences of monetary types, on an extensive scale, on the basis and with the condition of the adoption of the silver standard exclusively ?

3. Is there, on the contrary, a possibility of attaining this result on the basis and with the condition of the adoption of the gold standard exclusively ?

4. How much of like result is proceeding on the basis and with the condition of the adoption of the double standard and the establishment of an identity of relation, in all countries between the value of gold and the value of silver ?

5. In case of the negation of the three preceding questions, would it be possible and beneficial to establish identities or partial coincidences of monetary types on an extended scale, on the basis of silver coins, leaving each state at liberty simultaneously to regulate the gold standard ?

6. Would it be possible and beneficial to establish identities or partial coincidences on the basis of gold coins, leaving each state at liberty to regulate the silver standard ?

7. On the hypothesis of the affirmative solution of one of the two preceding questions, and observing the distinctions which the alternative imports, would the advantage of internationality, which coins of the metal assumed as the common standard would have, be a sufficient guarantee of their continuance in the circulation of each state, or would it be necessary beyond that to stipulate either for a certain limit in the relation between the value of gold and that of silver, or for the case where international coins would incur the risk of being completely expelled from circulation in some of the contracting states ?

Mr. MEES avowed himself, for each particular state, partisan of a single standard, and, although representing a state whose system rests on the standard of

silver, he did not maintain that this standard would be that which it would be proper to adopt in preference to gold; but he could foresee serious inconvenience in all the nations of Europe adopting the same standard, for this would exclude entirely from European circulation one of the two metals, while M. Mees considered them both as beneficial to be retained. It should not be forgotten that for trade with the extreme east, silver is the metal always in use; M. Mees would, therefore, be inclined to vote in the negative on the questions 2, 3 and 4, because he does not admit either the standard of silver exclusively or the standard of gold exclusively, and he would only vote for the adoption of the two-fold standard in the event of the formation of a universal monetary union, an hypothesis whose epoch of realization cannot as yet be predetermined.

M. DE JACOBI could not perceive any necessity for agreeing upon the adoption of one or the other standard. It would be sufficient to stipulate that such and such coins should be received and accepted as legal coins, each state remaining, in other respects, free to strike other coin in accordance with convenience or the necessities of its internal transactions.

M. LAVENAY remarked that the difficulty was perhaps greater than M. Jacobi seemed to suppose it. The proposition just set forth would tend to nothing less than the establishment of the double standard in all countries. How could it be admitted, in effect, that the government of a state which should have the silver standard, which, for example, could only strike legal coin in that metal, could consent to attribute that privileged character to foreign gold coins? How could their subjects, their public banks, be obliged to accept metallic specie which it shall have prohibited in its own issues, and of which it would seem to admit implicitly the fitness?

In another point of view would not the same government have to apprehend a danger—that of bringing into the market of the country a foreign money which might drive out the national coin and thus give preference to a metal which it has deemed fit to discard from internal circulation in that state?

Thus, in the opinion of M. Lavenay, every country which, upon economic principles, should have adopted one standard only, could not accept the combination proposed.

M. JACOBI. Without being bound to stipulate for the employment of one and the same standard, governments might come to an understanding to coin pieces of equal value. The approximations would not present great difficulties. Thus the demi-imperial of gold varies little from the Napoleon of twenty francs, and if the Russian government should coin pieces of one rouble and one-fourth, it would obtain a piece equal to the five-franc piece of France, and at the same time preserve to itself the denomination of rouble.

M. LAVENAY admitted the facility with which these combinations could be attained between France and Russia, which have the double standard; but the case would not be similar between a country with the silver standard and a country with a gold standard, such, for example, as Prussia and England.

The PRESIDENT did not perfectly comprehend the practical bearing of the observations of M. Jacobi. In the opinion which prevailed at the drawing up of the *questionnaire*, and in which the members of the conference appeared to concur, the solution, now sought for, could only be found in one of the five combinations following the adoption by all the states either of the gold standard or the silver standard, or the double standard, or, in fine, the standard of gold, with liberty to maintain for a time the standard of silver, and reciprocally.

M. FEER HERZOG indicated a certain connection between the remarks of M. Mees and those of M. Jacobi. They both think that the adoption of the same standard is not indispensable to the creation of a money which shall be universal. M. Feer Herzog was not of this opinion; for the specie, be it gold or be it silver, which should be intended for universal circulation, would become a simply commercial money, from the moment of their entry into a country where the

monetary standard would be of a different metal. This would fall back on the inconveniences which the conference should particularly apply itself to remove.

As for the fear expressed by M. Mees on the subject of the total disappearance of silver, in case of the adoption of the standard of gold exclusively, it did not seem to be founded on a thoroughly exact appreciation of the situation. The world is divided in its monetary relation into two considerable and very distinct groups: on one side the western states, where gold tends more and more to prevail; on the other, the countries of the extreme east, where silver continues to predominate. Commerce, which develops itself more and more between Europe and those far off countries, cannot fail to keep up on this side a considerable circulation of silver. The adoption of a single standard in Europe and the United States would not, therefore, have the consequences which M. Mees supposes, and M. Feer Herzog regards the standard of gold alone as the basis of a true monetary union.

The PRESIDENT could only connect himself, to a certain extent, with this manner of discovering whether the conference had come to an understanding about the complete unification of monetary types; but in default of a solution so completely satisfactory, we might arrive at a specification of coincidences more or less numerous between certain types, and to obtain this result, which would not be without value, unity of standard would not be necessary. It would suffice that all the contracting states should have a common standard.

M. Baron DE HOCK would define somewhat further the object of the discussion, after having fixed the standard as being the prototype, the rule of weight, of fineness, and of the metal of the money of a country. He recollected that the conference, in declaring at the last meeting in favor of the system of the convention of 1865, had already fixed the weight and fineness of the standard it intends to propose. It now remained for it to determine upon the metal—shall it be gold or silver? M. Hock would vote for the gold standard, and as for the double standard, it did not seem to him, in the same manner as to M. Herzog, susceptible of service in the formation of a monetary union.

The Count D'AVILA supported the judicious consideration developed by M. Lavenay. He did not think that countries with the silver standard could have an understanding with countries having the gold standard for the establishment of equations of their monetary types. M. Hermann set forth the importance of looking at the question actually under discussion from the stand-point of view of the population of states which represent, on the one hand, the standard of gold or the double standard, and on the other, the standard of silver.

The PRESIDENT reminded the meeting, on this point, that if European states only were taken into account, if abstraction was made of Asia, the monetary circulation whereof could not be confounded with that of Europe, and whose population is besides compensated in a certain degree by the population of the American continent, the following results are obtained: One hundred and eighty millions of inhabitants in states which use the gold standard, or the double standard, against sixty millions in those which hold the silver standard. The decision could not be doubtful. The president having remarked that the United States were in the like situation with France,

Mr. RUGGLES answered that this double standard did not practically exist, and that therefore the United States did not seem to him to be in position to be comprised among the countries having a double standard.

The original act of Congress, which was passed at a time when we were less enlightened than to-day, either by study or experience, sought to establish a double standard by giving to gold coin and silver coin equal legal currency in payments, whatever might be the amount of the debt.

In 1853, in view of the considerable change which had been experienced in the respective value of the two metals, and which was then in the way of increase, the double standard was practically abolished by the reduction of

about seven per cent. in the weight of the fractional pieces of the silver dollar, and by the declaration that all the divisional coins which should subsequently be struck should be a legal tender only for the payment of debts not exceeding five dollars. It is true that the silver dollar is still retained as lawful money for debts of any amount, but of a total silver coinage of 136,351,512 dollars, 4,366,340 only are in dollars, while \$131,985,472 consist of subdivisions of the dollar.

Almost all the divisional pieces which had been coined before the passage of the law of 1853 have disappeared, in obedience to the fundamental and inexorable law of demand and supply, which sets at naught all attempts made to fix by legislation the relative values of the two metals. The legislators and the people of the United States have sufficiently learned, if not by study, at least by experience, that the system of a double standard is not only a fallacy, but an impossibility, in assuming a fixed relation between the values of two different products, gold and silver. The value of each of these depends upon the quantity produced, and this quantity is beyond the power of legislation. A diminution of value is, and ever will be, the inevitable result of the increase of supply.

During the fifty-six years which immediately preceded the year 1850, the United States coined in gold \$85,588,038, and in silver \$75,322,969, which represents a supply of about  $1\frac{12}{100}$  of gold to one dollar of silver. From 1850 to 1866, inclusive, the coinage of gold has been \$759,648,453, and of silver, \$59,027,843, which represents about twelve dollars and fifty cents in gold to one dollar of silver.

Admonished by so great a change in the relative supply of the two metals, the United States now share, without reserve, the conviction, more and more extended through the civilized world, that it is impossible to establish a double standard, which must presuppose a fixed relation between the values of the two metals.

M. FORTAMPS recollected that in the conferences of 1865 he had already had occasion to declare that the Belgian government, after having been the partisan of the silver standard, considered, in view of the effects which took place in the monetary circulation of Europe, the standard of gold as the only one that ought to be adopted. M. Fortamps renewed, to-day, that declaration.

M. MEINECKE would not adopt either the second question, or the fourth, fifth, sixth, or seventh questions. He would vote for the third, that is, for the adoption of the gold standard exclusively; but must add that, for countries which, like Prussia, have the standard of silver exclusively, it would be necessary to prepare the change from one standard to the other by measures of transition. What should they be? M. Meinecke, not being furnished with any instructions, does not choose to anticipate them.

The PRESIDENT took note of the very important declaration which has just been made by the delegate from Prussia. He added that the eventual fitness of the adoption of measures of transition was provided for in the "*questionnaire*." M. Meinecke explained that he would fear that if the terms of questions five and six should be adopted without reserve, certain states could not keep up the double standard. It would therefore be proper to restrict expressly to the period of transition the time during which the silver standard might be maintained simultaneously with the gold standard.

M. WALLENBERG stated the situation and the views of Sweden. Formerly that country had two standards, the ducat in gold, the rix thaler in silver. The value of the ducat was precisely the equivalent of two rix thalers. As for the rix thaler it was composed of  $\frac{86}{100}$  fine silver, and corresponded with the rix thaler of Hamburg. Nine and a quarter rix thalers weighed a pound of Cologne. Each rix thaler was divided into 48 shillings, and the shilling into 12 runstycken. In consequence of the general disturbances at the beginning of the century, gold



and silver disappeared, and were replaced by notes of the state bank, having compulsory circulation. When, in 1830, the state bank resumed payment in silver, it was wished to base the coin on the weights of the country; one law decided that silver should be coined at  $\frac{75}{100}$  fineness, and that 25 rix thalers should weigh two pounds Swedish; it provided at the same time that the ducat should contain  $\frac{80}{82}$  of fine gold, and that 125 ducats should weigh one pound Swedish. It resulted from the new law that the intrinsic value of the rix thaler became a little higher than before. Formerly the pound of Cologne was equal to  $9\frac{1}{4}$  rix thalers; it became only equal to  $9\frac{1}{6}$  rix thalers. This difference, although slight, was not the less prejudicial to Sweden, considering that it has never been observed in the trade with Germany and Denmark. In this respect M. Wallenberg observed that England would take great interest in reducing the sovereign to 25 francs, as has been indicated to the conference, for the pound sterling is given in considerable quantities as the equivalent of 25 francs. Returning to the legislation of Sweden, M. Wallenberg added that, from 1847 to 1854, it had been sought to introduce the metric system into the weights and measures of the kingdom, and that this had not been entirely successful in consequence of the resistance of the clerical order and of the agricultural interest; but the decimal system had been admitted, maintaining at the same time the ancient unities. Thus, as to coins, a law of 1855 had decided that the rix thaler rixmynt should be coined of  $\frac{75}{100}$  fineness, should weigh  $\frac{2}{100}$  of the Swedish pound, and should be divided into 200 öres. At the end of eight years, 1863, this reform was accomplished.

In brief, there exist in Sweden two standards without fixed relative values—the rix thaler for domestic use and with neighboring countries, the ducat for international money. M. Wallenberg expressed the opinion that monetary unifications could only be established on the basis of the gold standard exclusively, that metal offering the best qualities for circulation; the silver standard should not be preserved except during a time of transition in countries which have it at present, as Sweden has. In the opinion of the Swedish delegate, the unit of international coinage should be a piece of gold of the value of 10 francs, at  $\frac{9}{10}$  fineness, giving 310 pieces per kilogram, and represented in its lowest subdivision by the thousandth part, that is to say, the centime.

M. JACOBI would think proper to admit among the measures of transition to be adopted, that debtors might make their payments in one or the other metal without distinction, at the rate of the day.

The PRESIDENT replied that this would disavow the legal money, and would reduce the two coinages to the grade of commercial interchanges, which would not be tolerated by the population, especially in France, where they would never consent to receive money the value of which would vary every day.

M. VROLIK thought the solution of the difficulties which are the actual subject of discussion might be found in the examination of the sixth question.

The PRESIDENT proposed a vote on the third question, proposing the adoption of the silver standard exclusively. The conference decided unanimously in the negative.

The discussion then opened on the third question relative to the adoption of the gold standard exclusively.

M. FRERHERZOG mentioned M. Meinecke's vote on the second question as being particularly important. Prussia was, in fact, the most important of the states that have the silver standard, and to vote for the adoption of an exclusive gold standard, as the delegate from that country had just done, was a declaration of very significant importance. M. Wallenberg, of Sweden, had voted in the same way. A great difficulty had thus disappeared, and now preferences can be openly declared for the exclusive gold standard. The monetary system of Switzerland was necessarily subordinate to that of the larger neighboring states, particularly France; yet the minutes of the conference of 1865 showed that,

even at that time, all the sympathies of the federal government were for the single gold standard. A similar declaration was also made at the same time by Belgium and Italy. The Swiss government had not altered its opinion since then, and it was now ready to renew the declaration, though bound by the convention of 1865. Therefore it proposed to decide the third question affirmatively. M. Feer Herzog added, that in an assembly composed of well instructed men, like the members of this conference, he would not produce the customary arguments in favor of a gold standard, but would point out the absolute necessity of adopting the metal that constitutes the mass of the monetary reserve as the general standard.

Baron DE HOCK said he would vote with M. Feer Herzog in the affirmative on question third. The reason he gave for his opinion was that men of merit have written in favor of the double standard. It was particularly asserted that the system would diminish the monetary crises, in tending to establish a sort of equilibrium between the two metals. But it is the sum total of money in circulation that influences the value of things sold, and not the relative proportion of the metals. If the amount in circulation increases, prices fall. With the double standard it is like opium—it is a useful medicine in some cases, yet nobody would use it every day, because it would then become a poison. The double standard might be very useful in financial crises, but it would be very inconvenient in general use, on account of the daily changes in the relative value of the two metals. It exercises an evil influence on the Bourse, for the fall in stocks is always greater in countries where the double standard exists than in those where the single standard prevails. While voting for the single gold standard, M. de Hock admits that in countries where a different system has hitherto prevailed, it might be necessary to continue the double standard, for a specified time, to be determined in advance.

The PRESIDENT remarked that M. Feer Herzog's and Baron de Hock's observations have been very pertinent to the question. The situation of the states of the convention of 1865 is not now in question, but that of Prussia, Sweden, and the Netherlands, that have the silver standard. Their situation is delicate, and we must attend to them. Should the transition period be of one or many years? If one year was fixed upon, and it was decided that debts should be paid at such a rate after that time, silver would fall, and gold rise exorbitantly; therefore a year would be too short. Perhaps it would be better to leave each state, as M. Vrolik proposes, to decide upon the time when they thought proper to modify their monetary systems, and when they could do it without disturbance, that is, after gold had nearly driven silver out of circulation.

M. MEINECKE thought it would be well to introduce a reserve in question third, in order to give the silver standard countries the chance of adopting the double standard temporarily, in case of an affirmative vote for the exclusive gold standard.

The PRESIDENT thought it essential to fix the measures of transition at once, if possible, and agreed with M. Meinecke that it is impossible to pass to the single gold standard without going through the double standard. The same opinion was expressed by Lieutenant General Mansfield, on the subject of the monetary system in India, where the silver standard prevails, which should be supplied by the double standard till the exclusive gold standard could be reached. M. Parieu added, moreover, that the best way to substitute gold for silver in general circulation, would be to fix a certain relation between the two metals, which is the subject of question seven.

M. MEES proposed to substitute the word *temporarily* for *simultaneously*, in question six.

M. MEINECKE said the words *at this time*, in question two, caused his reservations.

M. LAVENAY believed the general opinion of the conference to be already in



favor of gold as the only standard. Admitting this, the only remaining difficulty is the transitory measures, and question third might now be decided affirmatively, and adding, "saving arrangements necessary to carry it into effect."

M. BROCH thought gold ought to be the only standard, and that the free coinage of silver ought to be prohibited in countries where that standard prevails. In some countries any person can take bar silver to the mint and have it coined at a small cost. Individuals ought to be deprived of this right; the state alone should have the privilege of coinage, and ought to limit the quantity of coin issued to so much per head. This provision ought to be made now for the five francs of the convention of 1865. If such a precaution is not taken, and a sudden revolution rendered silver more abundant than gold in Europe, the same difficulties that now exist from the expulsion of silver would then happen inversely. So, private individuals ought only to be allowed to coin their gold.

The PRESIDENT thought there was an agreement upon the question of a single standard—differences only existing in regard to the mode of transition; so, to conciliate divergent opinions, he proposed the fusion of questions three and six.

M. MEES, adhering to what he said at the first of the sitting, would not vote for the adoption of question three, nor for the proposed fusion. He considered it inconvenient to adopt the gold standard everywhere, because it would reduce silver to change-money, and consequently gold would rise in value. He thought it not desirable to choose between the two metals at present. Moreover, M. Mees thought a monetary union not very certain to be adopted, and that the labor of the conference, to use a figure of M. Parieu, "is only a seed sown, the germination of which cannot be foreseen."

The PRESIDENT then proposed to decide question six in the affirmative, completing it by limiting the value between the two metals, as provided for in question seven.

M. JACOBI thought the question of standard not sufficiently investigated. Supposing two standards, how long would the fixed relative value between them exist? The proportion is essentially variable in theory, and there are perpetual changes in the reciprocal value of the two metals.

The PRESIDENT thought the result of the variations in value of the two metals, when both are circulating, will be to drive out the more precious metal, in a certain proportion, equivalent to the change in value. Even when the relation is changed, theoretically speaking, monetary circulation is not so much affected as is supposed, on account of bank deposits and private savings. There is always a certain quantity of specie in every small place, that only circulates among its inhabitants, and never gets out of a certain circle. Great masses must be operated upon to find a profit in the exchange of metals, and the change of metals takes place slowly by successive movements.

For these reasons the general circulation is neither suddenly nor sensibly affected by changes in the relative value of metals, for France has always had much silver in circulation, even when that metal was largely exported.

M. JACOBI thought if the gold standard alone were adopted, the silver in banks would be put into circulation, gold would take its place and rise in value. He said there is scarcely any gold in Prussia, and he asked M. Meinecke if the Frederic price of gold is very variable in the Berlin market.

M. MEINECKE said there are but few gold Frederics in circulation; none have been coined since 1831, except those much worn by use, and since 1857 none have been coined. It has a fixed legal circulation, so that there is no profit in recoinng it.

M. VROLIK thought the transition from one system to the other would be slow; that equations and identities would have to be created between the coins; and the right granted to each state to fix the current value of the coins, as is done with the Frederics.

M. FERR HERZOG said that would not be forming a monetary union, but would be maintaining what now exists in Germany in regard to the Napoleon.

M. VROLIK thought the Napoleon would be received in banks, and not have a legal circulation.

The PRESIDENT said that would be going back to the double system. He then put question three to the vote.

M. LAVENAY repeated M. MEINECKE's observations tending to a fusion of numbers three and six.

Baron DE HOCK thought the privilege of preserving the double standard for an indefinite time should not be left to any state; question three ought to be settled at once, by fixing a period of transition, as was done with question two.

M. ARTOM proposed to add these words to question three, "with the reservation of transitory measures."

M. HERMANN insisted that each state shall have the right to adopt any transitory measures it thinks convenient.

M. HOCK thought the states should not have the choice of these measures.

M. HERMANN insisting upon his opinion, Count AVILA proposed to add these words to question three: "Leaving each state the liberty of keeping the silver standard temporarily." As gold would drive out silver whenever they circulated together, this amendment should meet with no practical objection, and the temporary maintenance of the silver standard together with gold would not last long from the force of circumstances.

M. KERN would not continue the debate, but must insist on reading the instructions from his government: "If the question of the gold standard, which was rejected in the conference of 1855, is brought up, the delegates will vote as they were instructed in 1865; that Switzerland prefers the gold standard, but will be governed by the other states signing the convention of 1865." He added, that he did not know what conclusion France will come to, which made his situation delicate; but he thought the gold system cannot be adopted immediately, a transition period is necessary, and therefore he thought it better to complete question three with these words, "with the reserve of transitory measures," already proposed by M. Artom, than to adopt the less general proposition of Count Avila.

Count AVILA said, if the conference adopts Mr. Kern's proposal, he is disposed to second it. He is not much interested in the transitory measures now discussed by the conference. As a representative of a country with the exclusive gold standard, he will vote in favor of question three.

The amendment he proposed was to bring the states with a silver standard to an affirmative vote on question three. In granting the silver standard for a certain time, a general understanding would be arrived at, and a great advance would be made in monetary unification by accepting gold coins at a legal rate. For the silver standard countries that accepted the double standard would make gold the chief currency thereby, as is now the case in the states that accept the convention of 1865. In fact, in those countries the double standard exists only nominally; silver coins have become the change-money, and the five-franc piece, the sole representative of the silver standard, has only a nominal existence.

The PRESIDENT preferred Count Avila's proposal to M. Kern's. As transitory measures in silver standard countries are in question, we must not omit the most important of them, the provisional maintenance of the silver standard by the side of the gold standard.

Mr. GRAHAM accepted Count Avila's amendment, substituting the word *transitorily* for *simultaneously*, in the last part of question six, annexed to question three.

Messrs. KERN, HOCK, and ARTOM supported Count d'Avila in this substitution of terms.

After remarking that question six is suppressed, the president put question three, thus modified, to the vote:

"On the contrary, is this result attainable on the basis and condition of adopting the exclusive gold standard, leaving each state the liberty to keep its silver standard temporarily?"

The vote was unanimous in the affirmative, with the exception of the Netherlands.

M. VROLIK, invited by the President, explained that he voted against it because the modification goes beyond question six, where the word *transitory* is not found in the first draught.

This expression seemed to him to imply a time fixed in advance, and beyond which the silver standard is to give place to the gold standard. He would have voted with the other members of the conference if each state had been left the judge of the time it should keep the double standard. If the states joining Holland come to a mutual understanding, then Holland will be forced to imitate their example.

The PRESIDENT proposed to continue the discussion of question seven, questions four, five, and six having been solved negatively by the adoption of the affirmative on question three.

At the suggestion of Baron de Hock, the conference decided to meet next day, Friday, at ten a. m., for the continuation of the debate.

The sitting adjourned at half past five.

PARIEU,  
*Vice-President of the Conference.*

CLAVERY, *Secretary.*  
ROUX, *Secretary adjunct.*

#### INTERNATIONAL MONETARY CONFERENCE.—FOURTH SITTING.

FRIDAY, June 21, 1867.

M. Parieu presiding. The sitting opened at ten o'clock. Present, the delegates of the preceding sitting and Count Moltke Hvitfeldt, with the exception of Baron Schweizer.

Count MOLTKE said he voted with the majority on questions two and three, which were decided during his absence, with this reserve, however, that he does not pretend to oppose the monetary system of Denmark to that of the neighboring countries with which it has most business.

Baron DE HOCK asked permission to state why he voted for Count Avila's amendment on the wording of question three, to which he objected at the last sitting.

As decidedly in favor of the adoption of the exclusive gold standard, he would not have hesitated to vote for question three as originally drawn up; but modifying it by M. d'Avila's amendment, and then putting it to vote, forced him either to accept a form he did not approve of, or to vote against the gold standard; therefore he did not hesitate to vote in the affirmative. He laid aside personal preference, so as to put no obstacle to the acceptance of the principle of the exclusive gold standard by states having the silver standard, and determined to regulate the transitory measures for its abolition, as M. Meinecke and M. Hermann say they will. M. de Hock moreover thought that if the new wording of article three is defective, the practical consequences will be lessened by special conventions between the states. Stipulations of a nature to limit the action of each government in regard to transitory measures might be introduced, and in discussing question seven the too general meaning of the amendment to question three might be restricted.

The PRESIDENT said the decision at the last sitting would be no impediment to

certain transitory measures suggested by the conference, such as fixing a minimum limit to the relations between gold and silver, which is the subject of question seven.

VISCOUNT VILLA-MAJOR thought, before examining this question, it would be better to begin by determining what present coin could be adopted as a general unity of the monetary system, and he thought it would be very well for the delegates of each state to draw up a plan of equations between their present coins and the monetary unity they would like to see adopted. These equations might serve as a basis for the proposed unification. Portugal would willingly adopt the five-franc piece as a unity, as it already has the *reis* at the foundation of its monetary system, and if its minuteness renders it defective, it has the advantage of representing with tolerable precision the thousandth part of the five-franc piece. Therefore he thought some preliminary discussion of question eight should be entertained.

THE PRESIDENT recalled the incidental decision of the conference in favor of reducing the dollar to five francs, and the sovereign to twenty-five francs. The question did not concern the florin and dollar countries, and therefore M. Villa-Major's proposal would suit them. The conference could do nothing better than to agree unanimously upon the adoption of a single monetary unity, and M. Parieu believed no better piece than five francs, or one of its multiples, could be selected.

M. WALLENBERG mentioned in the preceding sitting that the gold piece of ten francs seemed to present peculiar advantages. Divide it by 1,000 and you have the centime, which is an excellent small monetary subdivision, while the five-franc piece divided by 100 gives five centimes, a too great fraction for small payments. In large transactions the ten-franc piece forms a good medium coin, a unity neither too high nor too low.

THE PRESIDENT liked M. Wallenberg's opinion; in fact, the piece of ten francs, taken as a monetary unity, would be very convenient for France, as in accounts it would only be necessary to change the comma to express new unities. Formerly the ten-franc piece had a universal circulation under the name of *ducat*, a piece that was nearly of the same value. It was also the smallest gold piece till the five-franc piece was coined to supply the place of the silver five-franc piece, which was driven out of circulation.

M. MEINECKE would not discuss the question; he thought the principal coins ought to be brought together by simple equations, each state remaining free to adopt the unity it pleases, provided its coins are easily changed to coins of other states. The principal unities would thus be assimilated, and therefore he was not authorized to pronounce in favor of fixing a monetary unity.

THE PRESIDENT agreed with M. Meinecke that the coins should be easily exchanged; but there must also be a common denomination for them, and the smallest that could be conveniently adopted for gold seems to be the five-franc piece.

M. MEINECKE suggested a smaller unity, two francs fifty centimes, for instance.

M. JACOBI preferred five francs, because it has whole numbers for multiples, as 10, 15, 20, 25, &c., whereas the unity of 2.50 would require fractional multiples.

M. HERBERT remarked that the unity of 2.50 in gold would be inconvenient to coin; and he instanced the 1.25 pieces that were issued at one time in Turkey, and found too soft and too small.

M. STAS thought the remarks about monetary unity would come in better with the discussion of question eight, and added that the 2.50 unity suggested by M. Meinecke would have the disadvantage of creating too many gold coins, and it would be difficult to tell them apart.

M. KERN agreed with Mr. Stas, and the conference determined to postpone it till question eight is discussed.

The PRESIDENT then read question seven :

In case of an affirmative vote on one of the two preceding questions, would the internationality of the common standard coins be a sufficient guarantee of their circulation in each state ; or would it be necessary to stipulate a certain limit in the relative value of gold and silver, or make provision for the case where the international metal might be expelled from circulation in any of the contracting states ?

The PRESIDENT remarked that this question regards the organization of the transitory situation of the states that have not the gold standard. Its principal aim is to harmonize the transition measures without affecting the decision of the conference in favor of the gold standard. It is necessary to make a correct estimate of the relations between gold and silver, and if the rate of gold in Prussia and Holland were known exactly, mediums of exchange could be established that would gradually introduce gold, and expel silver from circulation, in the countries where it has served as a standard, without a financial convulsion.

M. MEES said, in Holland, if the rate of exchange continues the same as it has been for the few last years, the florin would be worth 2 francs 13 or 14 centimes, and the Napoleon 9 florins 35, or  $\frac{1}{3}$ . But it is hard to say how long the present rate of exchange will be kept up. In late years the value of gold has been sustained by its great demand in France, and the proportionate expulsion of silver. At present there is no more silver in France, and gold has taken its place in circulation. The same want of gold is not felt now, and its value may diminish, particularly if it continues to be produced in considerable quantities. In such a case silver would rise ; and knowing this, a state like Holland, that wishes to keep its silver circulation, would find some difficulty in fixing a definite relation between the two metals. Nevertheless, in the border provinces, the Napoleon might be rated at  $9\frac{1}{3}$  florins, and 4 thalers at 15 francs or 7 florins of Holland, the last being equivalent to the florin of south Germany, though it has a value less than seven-thousandths. This par equality between the two florins in the Netherlands is caused by the large exportation of silver to India, the silver diminishing so fast it is necessary to coin it continually.

M. MEES added that if the gold standard were generally adopted and became the principal agent of general circulation, the difficulty in fixing a rate between the two metals would no longer exist, because, so far from diminishing in value, gold would rise, and then there would be no danger in an approximate rate.

The PRESIDENT. It would be useful for the conference to examine these questions of relations between the two metals ; for, if a preferred currency were given to one of them in a country, it would not only affect the circulation in that state but in the adjacent countries. There are great differences in Europe between these relations in countries where the double standard exists and where these relations are fixed. Thus in Russia the relation is 1 to 15, he believes.

M. JACOBI said the relation in Russia is 1 to 15.45 ; it was 1 to 15 when the half-imperial was worth exactly five rubles, but it was fixed at 15.45 after the half-imperial rose to five rubles and 15 kopecs. He asked if the gold coins are to be reckoned according to their intrinsic value.

The PRESIDENT said the fineness must be balanced against fineness, and adds that in Russia the relation between gold and silver is 1 to 15.45 ; in Spain from 1 to 15.48 ; in France 1 to 15.50 ; and in the United States about 1 to 16. Gold is the principal currency in this country.

M. FORTAMPS remarked that if the Napoleon were rated  $9\frac{1}{3}$  florins, as M. Mees mentions, it would produce an infinitesimal fraction. In the old Netherlands the florin was worth 2 11.64 francs ; since its reduction in Holland it is worth 2.10 francs, and reckoning from the value of this florin, the Napoleon would be reduced to 19 francs 60 centimes, thus losing 40 centimes. Under such circumstances gold would never circulate in Holland. What M. Mees says about the par of Holland and German florins, despite their difference in value, is true com-



mercially but not theoretically. Now, for international coins, we must consider their intrinsic value, and not the laws of exchange.

The PRESIDENT thought that the valuation of the Napoleon at  $9\frac{1}{2}$  florins, making the relation 15.19, is small, and that the minimum ought to be between 15.25 and 15.30. The particular position of Holland ought to be considered on account of its East India colonies.

M. MEES said, in Mr. Leon's work, published in 1860, the relation is less than he proposed; it is 15.17. The kilogram of gold being worth at that time 3 460 francs, and the kilogram of silver 228 francs, we find the relation is 1 to 15.175.

M. FERR HERZOG thought that is a mistake. The lowest relation was in 1859; it was then 15.21. At London, in 1860, it was 15.27, and by present quotations in Paris it is 15.46.

M. MEES answered the relation in 1859 was an average for the whole year, and therefore M. Leon's figures are right.

M. FORSTAMPS thought it well to arrive at a minimum relation. That proposed by M. Parieu, 15.25, is too low. It ought to be fixed at 15.45, so that a gold circulation could be established in the silver standard states. Moreover, the gold standard countries would never consent to fix the rate of silver coins, as they would thereby suffer a loss without compensation.

Baron DE HOCK thought that in discussing question seven we ought to fix upon something permanent. If the convention enters into the discussion of transitory measures he thought it would be best to leave them to be settled by special conventions hereafter; no inconvenience could result from that in monetary unification, for it is evident that the silver standard countries could not establish relations between the two metals so as to exclude gold from circulation without contradicting the vote given by the conference in favor of gold. Therefore he thought the establishment of these relations ought to be left to special conventions, and then each state could act as it thought best.

The PRESIDENT said the sub-committee proposed question seven in anticipation of the adoption of the double standard, leaving each state to continue it as long as it pleased. The conference went still further in its vote on question three, by deciding that the double standard should be transient, and ought to cease at a certain time, fixed in advance. Consequently, a greater sanction is necessary to introduce gold into circulation in those states, and the opinion adopted by the conference ought to be consecrated in its consequences as in its principle. It should be declared that the relations between gold and silver ought not to be fixed below a certain minimum, to be determined by the conference. Special conventions could do it, but would not the situation of the countries concluding those treaties be better if they could rely upon a decision of the conference? To take Holland, for example, it would be easier to induce its plenipotentiaries to give up the proposed relation of 15.19 offered by M. Mees, if the conference had previously decided that the minimum relation should be 15.25 or 15.30.

M. FERR HERZOG thought the question put erroneously, and that there is antagonism between the establishment of a system of equations and the fixing of a relation. For instance, four thalers being worth fifteen francs, if, with the fictitious gold thaler (3 75 cents,) the old silver thaler, which is somewhat less, is allowed to circulate, the relation will be between the weight of gold in the fifteen-franc piece and the weight of silver in the thaler.

M. ARTOM thought a relation between gold and silver may be established in two ways, namely, by equation and tariffication; but he thought it easier to proceed by equation.

M. LAVENAY asked if the question of relation between the two metals is not more properly an internal than an international question. It would be international if two universal moneys were to be created, one of gold and the other of silver. In that case a relation would have to be established. But gold has been

selected as the international coin, and silver will be a temporary legal currency in the states with a silver standard and a double standard. In that case all international negotiations would be transacted in gold; and whether dollars, Napoleons, sovereigns, or four-thaler pieces are received, payments will always be made in the terms and provisions of the convention. Therefore it does not seem necessary to stipulate a relation between gold and silver; for if one state establishes a bad tariffication, gold will not come there, and it will keep the more inconvenient circulation of silver much longer, and the individual interest of the state would incline it to receive gold, but there would be no international interest.

The PRESIDENT replied that an international money ought to have the qualities required for a serious circulation; it must circulate in the country; the advantage of internationality does not guarantee it.

M. PARIEU, referring to M. Feer Herzog's observation on equations of gold and silver coins, said it is not necessary to have a fixed relation, for, in the example quoted, four thalers equalling fifteen francs, the equation embraces the idea of the existence of a relation of 15.30. It would be the same in the states of south Germany if seven florins were equal to four thalers or fifteen francs. But it would not be so with Holland, where the florin is not so easily equalized, and for which a relation would have to be established.

M. FEER HERZOG did not mean what M. Parieu thinks. He meant that in giving a legal circulation to the fifteen-franc piece at four thalers, the two-thaler gold and silver pieces, the one of 3.754, the other 3.71, must have the same value in the interior, and then the equation would be established between the gold and silver coins, although the treaty only established the equation between gold coins.

The PRESIDENT. If an agreement were made with Prussia that fifteen francs should be worth four thalers, it would be introducing the international standard, and its silver thaler would not be altered, as it would be rated at 15.30. The circulation of gold would no longer be prohibited, and no doubt would become of great importance. So in Bavaria, if the fifteen franc gold piece circulated there for seven florins, it would be the same as fixing a relation.

M. LAVENAY thought it is not of international interest to fix a minimum of relation between the two metals. What would be the use of it? It would only be introducing gold in circulation in the silver standard states. But if a legal circulation is given to gold in those states, that metal will assume the ascendancy, and silver will have to circulate at its market value.

On such conditions, those states would soon discover that the best way to bring gold into circulation would be to treat it more favorably. As gold is more portable and convenient for money, it is the interest of nations to encourage its circulation both at home and abroad.

The PRESIDENT doubted if it is the interest of every state to encourage the circulation of gold within its limits. Holland, for instance, though its standard is different from that of its two neighbors, and its currency is different from all its neighbors, yet has a flourishing commerce, and its prosperity may continue a long time yet.

M. JACOB thought with M. Lavenay that the best way to get a money for general circulation, is to leave each state to settle the relation between the two metals. There would certainly be great differences at first, but particular tariffs would soon give way to a general tariff.

The PRESIDENT said it is not necessary to have a complete tariff now, but only to fix a minimum for the relation.

Mr. STAS observed that different meanings are given to the word *equation* in this debate, and he thought that in voting affirmatively on question three, in which the conference has decided to fix the relation at 1 to 15½, that relation ought to serve as a basis for equations.

The PRESIDENT said the affirmative vote on question three did not carry with it



the idea of equation between gold and silver coins, but only between the different gold coins, and then the vote was only on partial coincidences, and not on equations. It has moreover been decided that the double standard was necessary for silver standard countries as a medium of transition to reach the gold standard. Now as the relation between the two metals is different in different countries, and as gold comes in more readily when the coefficient of silver is higher, ought not a minimum to be fixed if gold is wished to be introduced? It would be vain to decide upon an international money without fixing a relation for it with the silver money in states where the double standard was transitory. There must be some system in circulation of coin to make it permanent. The Holland ducat, so useful in travelling, only disappeared because it had no fixed relation with silver in any country, and so its existence was ephemeral. This must not be the case with the new international money.

Mr. HAINDL thought the greatest difficulty for states having the double standard, or that are to have it temporarily, would be to find the exact proportion between gold and silver during the period of transition. Steps would have to be taken for one metal to drive out the other, but care should be taken not to cause a crisis by driving out silver too suddenly. These steps can be taken only at the moment of operation, so that no limited minimum could now be fixed. If the relation is 15.19 in Holland, as M. Mees says it is, it is 15.58 in Germany at present. So each state must be left to fix that relation, which would offer no danger, as its object would be to draw gold into circulation and join the monetary union proposed by the conference as soon as silver disappeared from circulation.

M. BROCH agreed with M. Parieu that a limited minimum is necessary for the transition period. Without such a provision, gold could not be introduced into a country that had fixed a limit too low. Thus there may be a doubt about the equation of fifteen francs to four thalers, permitting gold to enter Prussia, as four thalers would have an intrinsic value below three pieces of five francs each.

The PRESIDENT observed that within the limits of states, sentiments wholly apart from economy often have an influence on opinions in money matters. A reform of this kind encounters certain ideas of routine against it, certain exaggerated fears of any innovation, a singular love for certain coins. Therefore the conference should endeavor to establish rules to realize, as far as possible, the desires it has expressed in favor of the gold standard.

M. MEINCKE said that as question seven is in respect to transient measures, which he cannot discuss, he and his colleague must refrain from voting.

M. VROLIK, though he agreed with M. Parieu, thought with M. Lavenay, that it is better in practice to leave each state to fix its own relations. An average in exchange would soon be established between the two metals by the force of circumstances alone.

In Holland, the Napoleon would be received at 9 florins 35, which, as M. Fortamps observes, would give a relation of 15.19. Germany, as well as Holland, could receive the 15-franc pieces at 4 thalers, or 7 Bavarian florins. The 15-franc piece would then have a great circulation; it would be the connecting point between the German and French monetary systems. On the contrary, if a limited minimum relation of 15.25 or 15.30 were admitted, as M. Parieu proposes, it would be creating difficulties to a monetary unity, it is therefore better to fix nothing.

Baron DE HOCK, with Messrs. Lavenay, Meinecke, Haindl, Mees, and Vrolik, thought article seven might be passed over. Though he agreed with M. Parieu in having some principle for transitory measures, he thought it difficult to fix a limited minimum relation between the two metals for the States with the silver standard. In his opinion, that would depend entirely upon their value at the time of the international conventions. In fact, if it is remarked that gold has

continued to decrease in value for the last dozen years; that during the next two years it rose; we may ask if it will continue to rise, or will fall again?

This would cause serious discussion. Some men think gold will continue to rise, because its extraction is daily becoming more expensive, and because of its great dispersion by its introduction into the monetary system of India. Among others, Mr. Soetbeer, of Hamburg, whose writings have given him a name in Germany, thinks gold has an abnormal circulation now, and that it must fall in future.

In presence of such different opinions it is difficult to fix a limited minimum of relation that would satisfy the aims of the conference. Perhaps it is better to adhere to a certain generality, and for that reason M. Hock proposed this substitute for article seven:

"The advantage of internationality which coins would acquire from the metal adopted as a common standard would not be a sufficient guarantee for keeping them in circulation in each state, but it would be necessary to stipulate also, in countries that have had the silver standard up to this time, as well as in those of the double standard, that the relation between the value of gold and silver should not be established at a rate too low to permit the serious introduction of gold."

The PRESIDENT said he would willingly adopt M. Hock's proposal for countries of a silver standard, but he doubted if it would suit countries with the double standard. The last have long had a legal relation between gold and silver, and it would be difficult to suppose they would modify their metallic relations on adopting the gold standard, so as to drive gold out of circulation.

What M. de Hock's amendment contains, referring to countries of a double standard, might then be rescinded without inconvenience. The present debate is not on a minimum relation but upon M. de Hock's general proposal, that can be voted for affirmatively by the members of the conference who have not contrary instructions from their governments, without settling the question of a minimum.

M. HERBERT remarked that the question will come up in the special conventions, and can then be decided by the delegates that are qualified to do so.

On invitation of the president, M. FORTAMPS said, in his private opinion, a minimum relation less than 15.40 ought not to be adopted.

The PRESIDENT is disposed to put Baron Hock's proposition to vote.

Mr. RUGGLES asks that the vote be postponed till the next sitting, because he does not clearly see the effect of the amendment.

The PRESIDENT proposed to put the question to vote, and remarked that those members not prepared for the proposition, as Mr. Ruggles, who seems, however, to be alone, can withhold their vote at present and give their adhesion or refusal some other time.

M. KERN thought the debate has been long enough to give every member of the conference sufficient time to form an opinion, and says, he is not disposed to go further than Baron de Hock. When such important and diverse interests are at stake, long reflection is necessary before a positive decision can be rendered. Baron de Hock's proposition is less binding in its general terms than if it was made out in figures, as M. Parieu's primitive idea was. It is a happy compromise of diverging opinions tending to the same end, and differing only in comprehensiveness. The vote, then, should not be deferred, as no better solution could be reached in all probability. For the good of the conference the vote ought to take place immediately.

Mr. RUGGLES excused himself from voting because he does not understand the question. The United States would not consent to accept any fixed relation between gold and silver. The double standard is abolished when this relation no longer exists.

The PRESIDENT reminded Mr. Ruggles that the double standard still exists in

the United States, and of course the relation between silver and gold, which is 1 to 16.

Mr. RUGGLES answered that though the double standard still exists legislatively in the United States, it is virtually abolished in practice, and hence the United States has the gold standard alone.

The PRESIDENT. Reasoning in that way, as France coins a less number of five-franc pieces than America does dollars, we might say, like Mr. Ruggles, that France has the gold standard alone, and that is what nobody would assert.

M. JACOB remarked that the United States cannot be considered as having the single gold standard any more than France, unless a new law is passed to prohibit the coinage of silver dollars.

M. FORTAMPS regretted that the vote is not to fix a limited minimum of tariff, and says no country with the gold standard can be forced to admit a tariff of silver coins of other countries where the silver standard is preserved.

M. de Hock's proposal was put to vote and adopted unanimously, except by Prussia, the member from that country declaring that he cannot vote, and the member from the United States deferring his vote.

M. de Hock's proposition having been adopted, question seven was expunged, and would not be voted on.

The discussion of article eight was deferred till the next meeting, fixed for Saturday, at ten o'clock.

The sitting adjourned at half past twelve o'clock, noon.

#### INTERNATIONAL MONETARY CONFERENCE.—FIFTH SITTING.

WEDNESDAY, *June 26, 1867.*

Prince NAPOLEON (JEROME) presiding. Present, the delegates that attended the last meeting, and M. Delyannis, with the exception of M. Mees, who went to Amsterdam on urgent business, and could no longer take part in the labors of the conference, to his great regret.

In consequence of a report presented to the Emperor by the minister of foreign affairs, published in the *Moniteur* of the 26th June, his Majesty entrusted the presidency of the commission to his Highness Prince NAPOLEON, who opened the sitting with these words:

"Gentlemen: Appointed by the Emperor to preside over the International Conference for the unification of moneys, I have gladly accepted the mission. It is not becoming for me to say why I have received this appointment; the reason is kindly given in the report of the minister of foreign affairs. But I assure you it would be a vain presumption in me to think that I could bring much knowledge or furnish much information upon the subject in question, to an assembly of men so eminent as yourselves.

"I feel my incompetency, particularly after the wise direction that my friend and colleague M. de Parieu has given to your labors; and I hope he will aid me with his counsel and advice. I am aware of the difficulty I shall have in interpreting our good intentions by practical results; and the reading of the minutes of your sittings has proved to me how much you are moved by the spirit of conciliation so necessary to arrive at a monetary unity, which is the desire of all, and the great and many difficulties of all kinds that we shall have to encounter in our labors. But the greater the difficulties, so much greater the glory for the governments here represented. You all know the intelligence of public opinion in the present age, how prompt and exacting it is in its ardor; and we must endeavor to gratify it without disguising the obstacles we shall have to surmount.

"I beg you, therefore, gentlemen, to keep constantly before your eyes the

object we are pursuing. Let us remember that the public expects a result from our conference, and let us show why many former committees and conferences were unsuccessful. Let us so act that our assembly may not result in a fine report alone, or a good argument in favor of the unity of moneys; but let it end in a useful result.

"Let us continue our labors so well begun. I think this is the proper order for our deliberations: We will continue the discussion of the numbered questions; when that is done I will state what I think the best way, in a general or particular manner, for each state to "hasten the period of germination for the seeds you have sown," as M. de Parieu has justly and eloquently expressed it.

"I bring you all that I can, which is an energetic good will and a strong desire to effect a monetary unity. Allow me, gentlemen, to rely upon your kind assistance."

M. DE PARIEU replied to this speech of his imperial highness, for himself and the conference, in the following terms:

"Monseigneur: It is a great gratification to me to be the interpreter of the conference, by expressing the sentiments we all feel at the honor conferred upon this assembly by the presidency of your imperial highness. Permit us to hope that this honor will carry strength with it. Your financial knowledge, and the experience derived from your extensive travels, will serve to guide you in the direction of our arduous deliberations.

"Your imperial highness approves of the progress we have already made, and that approbation is of value to us all, and to me especially.

"Allow me to congratulate you, monseigneur, on the sympathy which you have just expressed for progressive ideas. The pursuit of useful innovations, over obstacles and through necessary delays, is a school of patience and justice; and it is also a career of honor worth entering, and in which we will march together at your side."

After this response of M. Parieu, in which all the members of the conference concurred, Count d'Avila submitted two propositions to his colleagues:

1st. The conference will express its profound gratitude to the Emperor for the honor he has conferred by appointing his imperial highness Prince Napoleon to preside over it. The address will be presented to the Emperor by a deputation from the conference, or, if there is no objection, by the entire conference.

2d. The conference will give a vote of thanks to M. Parieu, its vice-president, for the able and impartial manner in which he presided over their former sittings.

These propositions received the approval of the entire conference, and the first, relating to his imperial highness, was sent to the vice-president for transmission.

His Imperial Highness then handed a letter from his excellency Djemil Pacha to the conference, excusing himself for not attending, on account of the Sultan's arrival.

The minutes of the third and fourth sittings were read and adopted.

M. DELYANNIS regretted that he could not attend the last meeting. He said that he can vote on principal questions, but not on subordinate ones, as his government has adopted the system of the convention of 1865. Not being authorized to vote up to this time, he thinks it his duty to make reservations upon some points settled by the conference.

His Imperial Highness opened the discussion for question eight:

"Is it necessary for the success of monetary unity, to constitute a unity at present, identical everywhere in metallic composition, weight, and denomination; and, in this case, what bases are to be assigned to it?

"Or is it sufficient to constitute common types, having a common denominator of medium amount, as multiples of five-francs for the gold coins?"

Mr. RIVERS WILSON read the following declaration :

"Before recommencing the discussion of the list of questions, the English delegates deem it their duty to the government they represent, to the members of the conference, and particularly to the government of the Emperor, by whose invitation they are present, and to prevent any misunderstanding, to indicate their delicate and exceptional situation. They are convinced of the necessity of this declaration from the serious and practical turn the discussion has borne to this time, and particularly from the high signification that must attach in public opinion to the presidency of his imperial highness Prince Napoleon, and to the labors that must result from it.

"The English government was obliged to accept the cordial invitation from the government of the Emperor to participate in this conference, because a refusal would have shown a want of courtesy, and would have made it liable to accusations of prejudices upon this very important question.

"Indeed, the English nation is in a position much more independent upon this question than most continental nations.

"So long as public opinion has not decided in favor of a change of the present system, which offers no serious inconveniences, either in wholesale or retail trade, and until it shall be incontestably demonstrated that a new system offers advantages sufficiently commanding to justify the abandonment of that which is approved by experience and rooted in the habits of the people, the English government could not believe it to be its duty to take the initiative in assimilating its coinage with those of the countries of the continent.

"But the English government will be always ready to aid any attempt to enlighten and guide public opinion in the appreciation of the question, and facilitate the discussion of the means by which such an assimilation, so advantageous in theory, may be effected.

"Thus, while consenting to be represented in this conference, the English government has found it necessary to place the most careful restrictions upon its delegates ; their part is simply to listen to the different arguments, to study the situation as developed in discussion, and to report to their government. Thus far they have found no difficulty in voting in favor of all the propositions adopted by the conference, because their principles agreed with the system now in force in England. But they cannot vote for any question tending to bind their government, or express any opinion to induce the belief that Great Britain would adopt the convention of 1865."

M. HERBET informs the conference that the reserves just mentioned by Mr. Rivers Wilson are found in Lord Stanley's despatch to the French ambassador in London, announcing participation of England in the monetary conference.

HIS IMPERIAL HIGHNESS expressed the opinion that the labors of the conference are essentially theoretical ; that practical results must be effected in future international conventions, and therefore the English delegates need not fear to express their opinion on any question, since it cannot bind their government, any more than the opinions of other members.

Mr. MEINECKE thought it not to be necessary for the success of monetary unification to form a unity identical in weight and denomination, nor to constitute common types ; a unity of metallic composition is sufficient, with the conversion of the coins of the union, that may vary in the different states, by a simple equation.

For instance, let France take its 20-franc piece, and Austria its 10-florin piece for union money ; then the 20-franc piece would pass in Austria for 8 florins, and the 10-florin piece in France for 25 francs.

Each state might be left to subdivide its union money as it pleased, according to the needs and customs of its people. For example, Austria might coin 5-florin pieces, equivalent to  $12\frac{1}{2}$  francs, that France would not be obliged to



receive in its public banks, yet this small change ought to be of the same metallic composition as the larger principal coins.

M. MEINECKE thinks that crowns coined by the treaty of 1857, and gold coins by the convention of 1865, of the standard of nine-tenths fineness, would be the best form for this currency. But he cannot say what union money would be best suited for Prussia. What he has said is only intended as a principle. For these reasons he can only approve of the part of question eight that concerns the unity of metallic composition, which he would like to see fixed at nine-tenths fineness. He would vote against the other parts of that question, and could not vote at all on question nine.

His IMPERIAL HIGHNESS pointed out the importance of the question of fineness, to which M. Meinecke alludes, and thought it not expressed with sufficient precision in the list.

M. LAVENAY thought the first part of the question definite enough, but he thought these words should be added to the latter part: "having a common denominator and a similar fineness."

M. HERMANN said Bavaria is bound by the monetary convention of 1857, and cannot accept a currency not received by the Zollverein.

Baron SCHWEIZER said the same of the grand duchy of Baden.

Count D'AVILA thought the principle object of the conference is to prepare for the future, and he had always believed that the convention of 1865 was the best for that purpose; but we should find out the best means to hasten the result. For this purpose it would be well to adopt the gold coins as international money, leaving each state the right to coin its silver in its own way. The gold piece of 5 francs should be adopted as the basis of a monetary unity. The result of this adoption would be to substitute gold for silver in countries where the last is the standard, as in France, where gold is the actual standard, though legislation establishes the double standard.

Though he is not authorized to decide this question, he thinks he can safely say that Portugal would not object to lessen the fineness of its coins from 916 to 900 thousandths; but England would have to set the example. The effect of this would be slight in Portugal, as sovereigns form the chief gold currency there, and the Portuguese gold coins being few, their recoinage would not cost much, particularly as the diminution would offer a compensation.

Count D'AVILA added that he was aware of the difficulties in a change of system for the English currency, but in theory it does not explain the reserve of the delegates from Great Britain. In theory it would be necessary to change the sovereign, as the United States intend to change their dollar, and in case England followed the example of the United States, Portugal would naturally come in next, particularly as the pound sterling is a legal tender there.

His IMPERIAL HIGHNESS thought that all the members of the conference should agree first upon the fineness of the international coins, and afterwards discuss the monetary unity on the concordance of coins among themselves. For, even if the sovereign were reduced to 25 francs, the English piece would not be equivalent to the French, on account of the difference in alloy.

Count D'AVILA observed that the question has already been discussed in another assembly, where it was thought that England would agree to an equation between the sovereign and the 25-franc piece. The fineness of nine-tenths, the most common in Europe, ought to be adopted; but England must modify the alloy of the sovereign, or at least allow it to circulate for a time as 25 francs, without altering its fineness.

M. DE LAVENAY thought the question of fineness of minor importance to England, as the sovereign might contain just as much gold as the French 25-franc piece. The weight would not be the same, as the quantity of copper would be different for the same amount of gold, as nine-tenths to eleven-twelfths.

The chief obstacle would be the intrinsic value of the piece, as that would be

reduced, and it might cause a commotion among the people. But if England, inspired by the ideas thrown out by Mr. Ruggles on behalf of the United States, would consent to this recoinage, it would have the same interest in nine-tenths as in eleven-twelfths, with difference of weight and alloy. Why, then, should not nine-tenths be adopted? Unity of fineness has in fact an international value, for if all coins were of the same fineness nothing would be easier than to ascertain their intrinsic value. The two different pieces would be equal in weight as well as in fineness, thus furnishing a test of value in everybody's reach. If, on the contrary, unity of alloy is rejected, their weight would be dissimilar and the test destroyed. Therefore, a gold coin having the same fineness and denominator should be adopted, and the second paragraph of article eight could be modified to suit it.

M. LAVENAY apprehended that the English delegates exaggerate the powers of the other commissioners. The business of the conference is to find out the best way, in theory, to provide for a monetary unity, but no member binds his government by his acts. As the English delegates are in the same position, they should not refuse to enlighten the conference with their experience, but should give their opinions freely in the debate on succeeding questions.

Baron SODEN, of Wurtemberg, agreed with the representatives of Bavaria and the North Confederation, and felt the necessity of a change in the monetary system of Wurtemberg and south Germany. For that reason the proposal of France for a conference to assimilate the different monetary systems was gladly accepted in Wurtemberg. But, as the Monetary and Customs Union bind Germany together by reciprocal duties, the decisions of this conference ought to leave the German states at full liberty to act in concert. Their unanimous agreement to adopt the gold standard led us to hope there will be no difficulty in the adoption of an international currency when the question of an international treaty comes up in the convention.

With these reservations Baron Soden approved of the declarations made by the delegates from Prussia and Bavaria.

Baron DE HOCK thought that when the conference adopted the French monetary system as a centre for the proposed unification, it thereby settled the fineness at nine-tenths, and therefore there was no occasion for a new discussion of that point. He thought, with M. de Lavenay, that the question of unity of fineness is of great importance. In fact, without identity of fineness monetary unification is impossible, because identity of value cannot then be ascertained by weight; and as it is impossible to coin pieces of exactly the same weight and alloy, which gave rise to limits of tolerance, how can one know when these limits of tolerance are exceeded?

M. FRER HERZOG disagreed with Baron de Hock in thinking that the adoption of the French system implies an adoption of its alloy. The system was merely suggested as a basis of unification, with the modifications the conference might choose to introduce; but, personally, he thought nine-tenths the best alloy. He said the convention of 1865 is too often called up in discussion; nothing in that is binding on us. The duty of this conference is more extensive; it not only has to study the international merits of the convention of 1865, but has to fix a basis for monetary unification. The frequent mention of that convention has misled the English delegates and induced them to declare they could not vote for its adoption by Great Britain. The resolutions of this conference do not adopt the convention of 1865, they only seek through its proceedings a better solution of the monetary question. With this understanding the delegates can express their personal opinions without speaking for their governments, and it is to be regretted that M. Meinecke has shown so much reserve in speaking of the mark of Cologne and Stuttgart in this discussion of a monetary unity.

Count D'AVILA remarked that he did not mean that fineness was a secondary consideration, as M. De Lavenay supposes; he merely meant that France



and England might agree in bringing the sovereign down in value to the 25-franc piece without altering its fineness. The simple question is whether England would give the sovereign a legal circulation at 25 francs with its actual alloy, or reduce it to nine-tenths by melting. Contrary to M. Feer Herzog, he thought the convention of 1865 ought to be adopted as a practical basis in discussion. He did not propose its complete adoption, but only in reference to gold coins, without alluding to silver or copper currency.

Mr. DE PARIEU thought that the question of fineness, though important, may be considered as secondary; the chief point is identity of fineness in the coins. The banks could distinguish the differences of fineness in case of necessity, and a sufficient medium of control might be arrived at to ascertain the value of coins in circulation without resort to single weight. If the English pound sterling contained the same quantity of fine gold as the French 25-franc gold piece, an understanding could be easily arrived at. The superior fineness of the sovereign is rather in its favor; for, if reduced to nine-tenths fine, the additional copper alloy would increase its weight, and thus compensate for its loss in gold. But the chief difficulty might be the modification of contracts and the conversion of debts if the sovereign were thus reduced.

According to Baron de Hock the question had been already settled by adopting the first question. Though this is not exactly the fact, yet the question is predecided by admitting the advantages of the money of the convention of 1865 in a metric and decimal point of view, for the alloy of nine-tenths offers this decimal character by itself. The members of the conference are therefore almost agreed upon question eight, particularly if these words were expunged from the second part, "for instance, by multiples of 5 francs," that decide beforehand the common denominator of the international coins.

All the delegates are of opinion that a common denominator ought to be fixed upon for all gold coins of certain importance. In neglecting this last condition, we might say that denominator exists already; thus a common denominator of one-tenth is found for the sovereign, rated at 25 francs 20 centimes, and the Napoleon. But we do not want such a small denominator for the reciprocal conversion of monetary values. That of 2 francs 50 centimes, proposed by M. Meinecke, is even too small; for the comparison between the pieces of 10 francs, 12 francs 50 centimes, and 7 francs 50 centimes, would be very difficult.

In the material fabrication of these gold coins there should be a minimum difference of 5 francs, so as to make an apparent distinction in the form of these pieces. Such was M. Pelouze's opinion. He thought the coinage of a 25-franc piece very practicable, because it would differ greatly in size from the Napoleon of 20 francs.

In a scientific point of view, the delegates might therefore negative the first paragraph of question eight, and affirm the second paragraph modified by M. Lavenay's proposition, in discussing the utility of common types "for the weight and fineness of the gold coin."

M. ESCHER considered the question of similar fineness for the international coins as of great importance. Without this unity it would be very difficult to ascertain the true value of the pieces. It is their weight that gives the measure of their value. We must, therefore, have a unity of fineness, and the best for that is nine tenths, on account of its decimal character. In a metrical point of view it would have been better if the convention of 1865 had adopted the fineness of eight-tenths instead of  $\frac{835}{1000}$  for the small coins.

M. STAS hoped that his single vote for an entire new system at the beginning of the conference, as offering the best chances for a monetary unity, will not influence his present observations on question eight. He thought with Baron de Hock that the adoption of the first question implies an adoption of the French system, and that it is indispensable for its monetary types. Unity of fineness must be admitted, because the real value of a piece is most conveniently ascer-

tained by weighing it. Nobody has a true test always about him to ascertain whether his money is of a fineness within the limits of tolerance. The fineness of all coins must therefore be similar, and they must be of the metrical system.

The fineness of nine-tenths has this quality, and its prevalence in France, Italy, Germany, and the United States recommends it to those countries that have preserved the fineness of  $\frac{1}{2}$ , like England and Portugal.

After the question of fineness comes the common denominator, as 5 francs. The multiples of 5 francs would be 10, 15, 20, 25 francs, the correlative coinage of which would be very difficult. For instance, in the present pieces of 5, 10, and 20 francs, the diameters are 17, 19, and 21 millimetres. Now, if a 15-franc piece is coined, its diameter must be between 19 and 21 millimetres; and there would be but one millimetre difference between the pieces. It would be very easy to mistake these coins, particularly when we see 10 and 20 franc pieces, so often mistaken. Why, then, make a piece between them in size?

M. STAS did not hesitate to say, that in presence of so many practical difficulties, besides the inconvenience of a system with so many gold coins, it would be necessary to raise the common denominator from 5 to 10 francs, and supply the 5 franc gold piece, which is so inconvenient it is often refused in Belgium, by an alloyed silver piece of the same value.

He thought Austria was wrong to make a 10-florin and 4-florin piece, of 25 and 10 francs, because 10 has to be divided by 4, which makes a system essentially defective in a scientific point of view. On the whole, he was for unity of fineness, and thought it ought to be nine-tenths, with the lowest types of 10 and 20 francs. The 5-franc piece should be alloyed with silver, so as to make it more convenient in size, and no 15 or 25 franc pieces should be struck, because they are not scientific, and their practical utility is uncertain.

M. HAINDL, as director of a mint, protested against Baron de Hock's interpretation of the limits of tolerance. Certain tolerances are agreed upon, not to lessen pieces in weight and fineness, as Baron de Hock says, but solely on account of the impossibility of giving the exact weight and fineness that the coins ought to have. The tolerances above and below ought to compensate for the general wear on all coins.

M. JACOBI remarked that the question of tolerance explains itself. He thought a common fineness and tolerance should be adopted in coining the pieces. He said the second paragraph of question eight is not properly worded, and the labors of the conference will be vain, unless identity of weight and fineness is inserted in the first line.

HIS IMPERIAL HIGHNESS, in answer to M. Jacobi and other members, proposed to substitute the following phrase for the paragraph in question:

"Is it necessary to constitute common types for the weight and fineness of gold coins?"

This new formula is open to debate.

Baron DE HOCK preferred the original form; as the last mingles two distinct questions, namely, of weight and fineness. It is probable that all the members of the conference will vote for identity of fineness, and few for correlative identity in weight; for, with this double identity of weight and fineness, identical coins are produced, and there would be no need to establish partial coincidences between the coins of different countries, as mentioned in the first question.

Baron DE HOCK favored common types with identity of fineness, but opposed identity of weights, as that would cause identity of coins. M. Parieu's wording, where the two elements are distinct, is therefore preferable.

As to common types, it would be best to let each state make its own gold coins as it chose, provided it had one gold piece in common with the others. The same distinction might be made in these coins as in the union coins and territorial money of the convention of 1865.

Baron DE HOCK concluded by referring to M. Haindl's remarks, certainly

caused by a misunderstanding, as he regarded the question of tolerance precisely in the same light as his honorable colleague.

M. MEINECKE did not think it necessary to adopt an identical coin, but that a distinct concordant coin would be sufficient. It would be best to divide the question as proposed by his Imperial Highness, as he would vote for identity of fineness, even at nine-tenths but against identity of weight. He did not know if the 4-thaler piece, so often mentioned in this discussion, could be struck in Prussia.

M. JACOB thought that the adoption of coins of different weight and fineness, but equal in value, would remove present difficulties, and the money would be carried inland.

On the contrary, would not identity of fineness without identity of weight force each state to recoin all foreign money that comes in, as is the case at present? Therefore identity of weight and fineness ought to be adopted.

M. VROLIK thought weight and fineness go together and ought not to be separated, so there is no cause to divide the question put by his Imperial Highness. What ought to be the common denominator of the common types, the 5 or 10 franc piece? M. Vrolik preferred the 5-franc piece, because he believed in the necessity of the 15-franc piece for Prussia, south Germany, and Holland, which would certainly circulate extensively in central Europe. As M. Stas says, this 15-franc piece might be mistaken sometimes for the 20 or 30 franc piece, but to reach a monetary uniformity we must overlook some difficulties.

His IMPERIAL HIGHNESS thought the difficulty of fabrication not insurmountable, and the difference of 5 francs could easily be perceived. So thought M. Pelouze. The 15 franc piece might, therefore, be coined.

Mr. RUGGLES considered unity of fineness as essential. He will vote for the question as put by his Imperial Highness because the United States desire unification of fineness and weight.

M. ARTOM was of opinion that, as the conference is agreed upon identity of fineness, that part of the question might be voted on separately.

M. DE LAVENAY said, by identity of weight is meant correlative weight, and the adoption of the question as proposed does not force the adoption of identical coins. A piece of 15 francs and one of 10 francs, both of nine-tenths, have correlative weights. Identity of weight is the present question.

His IMPERIAL HIGHNESS said there can be no international money without identity of fineness and weight. There is no necessity, then, to modify the first paragraph of article 8 as it now reads, namely:

"Is it necessary to constitute common types in weight and fineness for gold coins?"

M. WALLENBERG thought that as the conference is agreed on identity of title, that part of the question ought to be put to vote. He asked that the standard be fixed at nine-tenths, as Sweden has agreed, after many essays, that it is the best. These experiments were made when the metrical system was first attempted to be introduced, and which failed on account of the opposition of the clergy and country people.

His IMPERIAL HIGHNESS thought it best not to fix a fineness at present, till the vote becomes unanimous.

M. DE PARIEU said there is no absolute necessity for agreement of weights and fineness. For instance, an assimilation might be effected between the French monetary system and the English, if the sovereign were reduced to 25 francs, and it would not be necessary to reduce the fineness for that purpose. It would be a great advance without identity of weight and fineness.

On the other hand, there might be types of a common denominator without identity; for example, if the English should reduce their sovereign to 25 francs without our striking any coins of that value.

His IMPERIAL HIGHNESS said that would not be an international coin.

M. DE PARIEU replied that international money does not mean identical coins, but coins easily changed. Thus, the simple relation of 20 francs and 25 francs would constitute a sort of international community of a certain utility.

M. STAS was of opinion that, with equal value, weight is inseparable from fineness.

M. JACOBI agreed with M. Parieu. He thought unity will remain ideal in certain States, but that is of no importance; it is sufficient for coins to have simple relations.

Baron DE HOCK, who advocated common coins, admitted identity of fineness and identity of weight in coins of the same value. He would also like to see identity of diameter in these equal value coins. Yet to decide this more easily, he thought the two parts of the question should be voted on separately. One of the two might be decided unanimously.

His IMPERIAL HIGHNESS proposed M. de Parieu's reading in two forms:

"Should there be types with a common denominator for the weight and fineness in gold coins?" Or this:

"Should there be types with a common denominator for weight in gold coins of identical fineness?"

M. KERN seconded M. Parieu's motion for the term denominator, which may be theoretical, without obligation of coinage.

Several members expressed their preference for M. de Parieu's second reading, and his Imperial Highness put it to the vote. It was unanimously adopted.

His IMPERIAL HIGHNESS also proposed to vote on the question of international fineness, and suggests nine-tenths, which was unanimously adopted.

Mr. GRAHAM said he voted for nine-tenths only in case of an eventual re-coinage.

His IMPERIAL HIGHNESS then put the question of a common denominator; but at the request of several members, the discussion was put off till the next sitting, which was fixed for Friday, 28th June, at 9 o'clock a. m.

The sitting closed at a quarter to one o'clock.

NAPOLEON, (JEROME,)

*Prince President of the Conference.*

CLAVERY, *Secretary of the Conference.*

ROUX, *Secretary Adjunct.*

#### INTERNATIONAL MONETARY CONFERENCE—SIXTH SITTING.

FRIDAY, June 28, 1867.

Prince Napoleon presiding. The sitting opened at 9 o'clock. Present, the delegates that attended the preceding meeting, except M. Fortamps, who was obliged to return to Brussels.

His IMPERIAL HIGHNESS announced that Señor José Polo, the representative of Spain in the conference, had to attend the Cortes in Madrid, and the Spanish government had appointed Count Nava de Tajo, sub-director in the department of foreign affairs, to take his place.

Count Nava de Tajo immediately took his place among the members of the conference.

The minutes of the fifth sitting were read and adopted.

His IMPERIAL HIGHNESS remarked that the conference adopted the first paragraph of question eight at the last meeting, under this form:

"Should there be types with a common denominator for weight in gold coins of identical fineness?"

The conference also adopted the fineness of nine-tenths.

Now it remains to fix a common denominator, as expressed in paragraph second of question eight, in these terms :

“ What should be the common denominator ? Must it be 5 francs ? ”

The debate being opened, M. de LAVENAY advocated the advantages of the 5-franc piece as a common denominator. With its multiples it coincides with many other coins ; it nearly corresponds to the dollar and the sovereign ; and it exists in the convention of 1865. The United States are ready to adopt it, and cannot make use of a higher unity without modifying their entire system.

In some countries, as in Belgium, as M. Stas remarks, if the mould or die of 5 francs is thought to be too small for convenient coinage and ready circulation, those states might be dispensed from coining it.

HIS IMPERIAL HIGHNESS said, Mr. Leone Levi declared at the conference instituted by the committee of weights, measures, and coins at the Universal Exposition, over which he presided yesterday, that the 10-franc piece, divisible into 100 pence, would be preferred in England.

Mr. WILSON, speaking for Mr. Graham, says, in his private opinion the 10-franc piece would have the advantage over 5 francs by giving a higher unity, which would be desirable for England in offering a more simple relation with the ordinary system of the franc.

Count D'AVILA would vote for 5 francs as a denominator, and agreed with M. de Lavenay that certain states may not be obliged to coin it, but they must receive it.

M. STAS insisted that the 5-franc gold piece is too small for convenient coinage, and that it must be enlarged by silver alloy.

M. DUTILLIEUL said that in France the 5-franc gold piece is even yet a coin met only in cities, and but very little in the country.

Count D'AVILA adduced the example of Portugal, Spain, and the United States, where there is no complaint of the milreis, the 20 real, and the one dollar piece, all which approximate the 5 francs of the monetary union of 1865.

M. WALLENBERG repeated what he said on a former occasion in regard to the adoption of the denominator of the 10-franc piece, which agrees perfectly with the decimal system, whereas the 5-franc gold piece neither agrees with the decimal system nor with the system of the franc ; 5 francs divided by 100 leaves the 5-centime piece entirely too small, while the 10-franc piece divided by 1,000 gives the centime, forming a good subdivision to the last degree of the monetary scale. He said it should be decided that all the states should coin the 10-franc piece, but he left at liberty to coin whatever other pieces they might choose. The United States might coin 2-dollar pieces ; that would be much more convenient than the 1-dollar piece.

M. HERBERT did not agree with M. Stas in thinking the Belgians so much opposed to the 5-franc gold piece.

Baron D'HOCK favored the 5-franc common denominator, as the lowest possible to be convenient.

M. VROLIK also preferred it, as it will allow the coinage of 15-franc pieces, and will suit the silver standard countries that have the thaler and florin.

M. MEINECKE could not say at present what gold coin would be best suited to Prussia and the German states, if they hereafter decide to change the silver for the gold standard ; nor could he say that they would readily adopt any coin easily convertible into French gold pieces, as it might be against the interests and opinions of the people. They might adopt the crown of the convention of 1857, nine of which contain 310 francs in gold.

M. MEINECKE gave these reasons for not voting on the question of a denominator.

M. JACOBI approved of adopting the 5-franc piece as a denominator, but inquired why a 5-franc platinum piece could not be coined with a weight of 5



grams, or 1,000 francs, per kilogram. This was suggested by M. Stas's remarks.

His IMPERIAL HIGHNESS replied that the platina would have to be purchased from Russia, in the first place, and moreover that the experiments that have already been tried have failed. In any event, the platina piece would be considered as "*billon*," and the conference is not concerned with that particular kind of coinage.

M. JACOBI replied that platina could be coined now under more favorable circumstances than formerly, considering the improved treatment of that metal, thanks to the labors of Messrs. Henri, Saint Clair Deville, and Debray. He adds that Russia is not the only country where that metal has been found; it has been discovered in considerable quantities in various parts of South America.

M. FRER HERZOG was surprised at M. Stas's objections to the 5-franc gold piece; it passes readily in Switzerland, it represents the piastre of many countries, which was the universal currency for a long time, and when brought into America by the Spaniards gave rise to the dollar.

M. Jacobi's suggestion could not be adopted, as it would be dangerous to introduce a new metal, and platinum is too hard to take the place of gold and silver for money.

M. JACOBI replies that from his own experiments and others platina is easily coined, and is predestined by its nature to become the universal metal for money, when it shall be found in sufficient abundance.

Mr. RUGGLES said the gold dollar, notwithstanding its dimensions, is well liked in the United States.

His IMPERIAL HIGHNESS proposed to put to vote the second paragraph of the new question, eight, by adding to 5 francs the words, *or its multiples*, so as to allow Sweden to vote in the affirmative.

M. ARTOM thought the reduction too great, as there should be but one common denominator.

Mr. GRAHAM remarked that if 5 francs is adopted as a denominator, all accounts in England must be kept in dollars.

M. DE PARIEU thought the denominator should be certain; he proposed to vote on 5 francs as a denominator, leaving out "*or its multiples*," because a single figure is best for a denominator.

His IMPERIAL HIGHNESS put the question to vote, and it was adopted by 13 to 2. England and Sweden voted no; Prussia, Bavaria, the grand duchy of Baden, Wurtemberg, and Belgium did not vote.

The ninth question was next opened for discussion:

"In case gold is adopted as the international metal, would it be expedient for the types of the coins determined by the monetary convention of the 23d December, 1865, for the sake of unification and reciprocity, to be completed by new types; for instance, by pieces of 15 and 25 francs? In this case, what should be their dimensions?"

On motion of his Imperial Highness, the second part of the question was left out, because details, such as the dimensions of the coins, would be more properly discussed when the governments shall agree upon executive measures.

Baron DE HOCK thought we should first agree upon common coins, that is, money that would be a legal tender in all the states.

M. DE PARIEU replied that, laying aside the question of legal tender, the proposal of common types has been accepted by the fact of the adoption of the affirmative on the preceding question. With a common denominator, it is evident there will be pieces and common types, practically, if not from absolute necessity. The interest, then, in question nine is reduced to technical explanations on the coinage of 15 and 25 francs solicited by the directors of mints, and the discussion of obstacles to the decimal system.

Viscount VILLA MAIOR thought it sufficient to admit 5, 10, 20, and 25 franc pieces.

Mr. RUGGLES particularly insisted upon the interest felt by the United States in obtaining the consent of France to coin pieces of 25 francs, thereby revising the convention of 1865. The American half-eagle and the English sovereign would readily circulate side by side with the French 25-franc piece, on conditions of perfect equality.

Copies of his written argument, presenting the considerations in favor of the measure, were distributed among the members. This document, containing many statistics, is annexed to the present minutes.

His IMPERIAL HIGHNESS informed Mr. Ruggles that France does not object to his proposition; but the convention of 1865 being in force, the French government must have an understanding with its associates; but that the revision of that diplomatic act, on the point in question, would undoubtedly meet with no difficulty.

M. ARTOM thought the Italian government would not object to receive the 25-franc pieces, provided it was not required to coin them.

M. BROCH wanted the types of the universal coins to be as few as possible. He thought the states should not be required to coin, or even to receive, the 5 and 15 franc pieces. One is too small, and hard to preserve of exact weight, as M. Stas remarks; the other is useless, as it would only suit Germany, where they are disposed to coin the *marc*, twenty of which would equal 25 francs.

Baron SODEN remarked that the 15-franc piece would suit the south German states.

As the differences of opinion seem to be confined to the 15-franc piece, his Imperial Highness proposed to vote first on the adoption of the 25-franc piece.

M. HERMANN, taking up Baron de Hock's proposition, insisted that the conference first vote to know whether only one coin is to have legal currency in all the contracting states.

Baron DE HOCK said, in fact, the conference has not yet declared that the coins of one state should be received by all the others. Without such reciprocal reception there would be no monetary community. After the committee has decided this general question, M. Hermann's might be next examined, namely: "Whether this acceptance is to apply to all the coins of the monetary system, or only to some of them?"

M. DE PARIKU, in reply to Baron de Hock, put this question: "Are the 5-franc gold coins to be received in the public banks of the states that are bound by the monetary convention?"

M. STAS proposed to substitute the words *legal circulation*, for *received in the public banks*. He said, as the convention of 1865 only contained this last stipulation, the Bank of France, without giving reasons, refused to receive 155,000 francs in Belgian gold. If it feared a surfeit of that kind of money, it might rest quietly, as only 4,800,000 francs in gold have been coined in Belgium since the convention.

M. FEER HERZOG said it is true the contracting states only obliged the public banks to receive the union money in 1865, because they did not wish to force their citizens to accept foreign money; but it was officially declared at that time by the board of directors of the public funds, that when the public banks in France received the union money their example would be followed by all the other large credit establishments.

M. DE PARIKU feared it might cause some trouble in remote localities if the union currency were now made a legal tender among private individuals, instead of only being receivable in public banks. Tax collectors might readily recognize the different dies of the gold pieces with the denominator of 5 francs; but individuals would be puzzled by the foreign effigies on the coins imposed upon them.



M. DE LAVENAY thought that inconvenience might result if small change, with intrinsic value below the nominal, were forced into circulation; but we are now speaking of coins of a real value equal to their legal value.

Mr. RIVERS WILSON had doubts about the words "legal circulation;" he asked what would be the result of a limitation to the amount receivable in payment, as in the case of silver small change?

His IMPERIAL HIGHNESS said the question was not about coins with a limited circulation; he approved of the words "legal circulation," because they mean that the international money must not be refused, and the people will then accept it willingly.

He proposed this new wording: "Shall the gold coins with the common denominator of 5 francs have legal circulation in the states that are mutually bound by the monetary convention?"

On M. Stas's proposition, the word "coins" was substituted in place of the words "the coins," as being more restrictive, and expressing certain coins.

The question thus put was adopted unanimously.

The delegates from England, Prussia, Wurtemberg, and the grand duchy of Baden did not vote.

His IMPERIAL HIGHNESS recalled the discussion of the 25-franc piece.

Mr. RUGGLES wished it to be well understood that the United States particularly desire the adoption of the 25-franc piece as a type.

Mr. GRAHAM thought there should not be so many different pieces. The introduction of the 15 and 25-franc pieces into the French system would be a defect; it would be better to stop at the 20-franc piece. He inquired if France really intended to coin 25-franc pieces.

His IMPERIAL HIGHNESS replied that certainly, if France consulted only its own convenience, she would see no necessity for issuing this new coin; but to facilitate the work of unification, the object of the labors of the conference, it would make the concession requested by the United States. It also appeared that the coinage of the 25-franc piece would equally accommodate both England and Austria.

Count NAVA DE TAJO said that the coin would also accommodate Spain.

M. STAS agreed with Mr. Graham in believing if a new system is not to be adopted we ought to adopt the French system, without change, and not multiply subdivisions.

His IMPERIAL HIGHNESS thought the bases of the convention of 1865 ought to be enlarged, in order to affect assimilations that it has not yet offered the means of realizing.

M. STAS thought the bases of the convention of 1865 were too large already, and that the 5-franc piece ought not to remain in it.

M. JACOBI said if experience shows the 5-franc piece to be too small for convenient circulation, it will soon disappear.

The question on the 25-franc piece being put to vote it was unanimously adopted. Prussia, the grand duchy of Baden, and Wurtemberg abstained from voting.

His IMPERIAL HIGHNESS then proposed the opening of debate on the 15-franc piece.

M. VROLIK insisted on the admission of the 15-franc piece in the universal monetary circulation.

M. DE PARIEU seconded the motion, because he thought it would prove acceptable to many densely populated states.

Baron SODEN answered for Wurtemberg in accepting M. Vrolik's proposition.

Baron DE HOCK thought there was no present necessity for adopting the 15-franc piece, because Holland has not yet come into the monetary union, and the coin in his opinion would be of no use in the German states.

M. VROLIK replied, that without speaking for his government, he indicated

the 15-franc piece as a means of inducing a certain number of states to join the monetary union.

M. DE PARIEU did not see why Austria objected to the 15-franc piece when it was demanded by Holland, and suited south Germany. The Austrian commission of April last adopted the 10 and 25-franc pieces. By adding a 15-franc piece to the 10-franc piece, Austria would have the two elements composing the piece of 25 francs in gold.

M. ARTOM demanded that, in any event, it be laid down that the states should be bound to accept the 25-franc piece, but not to coin it.

M. MBINECKE regretted that he could not vote on this question any more than he could on the other; but to come to a decision it will be necessary to know what Prussia wants. Now there is no fixed opinion in that country, but a monetary uniformity is certainly desired. All he can do is to vote for the gold standard, but in minor questions he can take no part. He has no idea of their effect, for he does not know when or how Prussia will pass from the silver to the gold standard. It could not be done now without producing a monetary crisis in Prussia, which is not in the same situation as France in that particular. The latter would not have so many sacrifices to make as the former in the transition to the proposed monetary unification.

M. KERN came to the conference intending to vote personally and without committing his government for all propositions that would contribute to the formation of a monetary union more extensive than that of 1865, but resting always upon the same basis. He did not speak for his government. Without regard to preference to the country he represents, in a spirit of conciliation, he voted for the 25-franc piece because the delegates from Austria and the United States made this concession, and he believed England would do the same. But he was surprised to hear the delegate from Great Britain say the 25-franc piece did not appear to him to be useful.

M. KERN did not see the convenience of adopting the 15-franc piece so long as the states particularly interested, and especially Prussia, have not pronounced in its favor.

Mr. RIVERS WILSON, speaking for Mr. Graham, said the delegate from Great Britain placed himself in a purely theoretical point of view when speaking of the acceptability of the 25-franc piece. It would be rather injurious than useful to the general economy of the French system, but it would not be so in a monetary union between England and France.

HIS IMPERIAL HIGHNESS sincerely regretted this disagreement. If the discussion of the members is theoretical, it is only in the sense that it does not bind their governments, as if they had plenary powers; but this conference is not here for speculative studies; its aims are definite and practical, to which it is the duty of all its members to direct their efforts.

Mr. RIVERS WILSON replied that England could not but appreciate the intention with which it has been proposed to introduce the 25-franc piece.

M. DE PARIEU remarked that the words *by reason of reciprocity* were designedly inserted in question nine, now under discussion. They are always understood, and with this reserve M. de Parieu saw no inconvenience in coining and circulating 15-franc pieces. To repeat the lively remark of his Imperial Highness in respect to the 25-franc piece, it would be an *invitation* to the states that think they are not yet prepared to decide.

M. HAINDL, while confessing that the 15-franc piece would suit the German states, remarked that there would be a difference between it and the 7-florin or 4-thaler piece of  $1\frac{1}{4}$  per cent. in favor of the former. It would therefore be necessary to increase the value of the thaler or florin, which is their present monetary unity. That, perhaps, explains the hesitation of the German states.

Baron SODEN said that while favoring the 15 franc piece, he did not forget

that the treaty of 1857 still binds Wurtemberg and the states that have signed it, with the exception of Austria.

M. DE PARIEU observed there is no other gold piece but the 15-franc piece that can bring Prussia, south Germany, and Holland into the monetary union. Now what ought the conference to propose? It ought to prepare a common ground and point out all possible communications between the existing systems.

Count D'AVILA approved of this, and said the conference ought to decide at once, either *for* or *against* the admission of the 15-franc piece, so that the decision might serve hereafter as a point of departure in further governmental resolutions.

M. KERN, for reasons already given, thought the states interested ought to wait for more precise declarations than have been given.

M. ARTOM, not wanting to see the 15-franc piece positively rejected, proposed to decide by vote if the question should not be reserved.

His IMPERIAL HIGHNESS consulted the delegates to know if any state wished to exclude the 15-franc gold piece from the monetary union.

The conference replied negatively to the question, with the exception of Sweden and Norway.

His IMPERIAL HIGHNESS then put the question: "Shall the 15-franc piece be mentioned in question nine, or shall it be reserved?"

Seven states voted for the mention, seven against it, and six did not vote.

Those in favor were: France, Spain, the United States, Greece, the Netherlands, Portugal, and Russia.

Those against were: Austria, the Grand Duchy of Baden, Switzerland, Italy, Denmark, Sweden, and Norway.

These states did not vote: Bavaria, Belgium, Great Britain, Prussia, Turkey, and Wurtemberg.

Question ten, in relation to silver or alloyed coins, was next read. The conference decided that the question could not be settled then.

The proposal of Baron de Hock and M. Jacobi, relative to the principle involved in question eleven, concerning the control to be exercised in the coinage of the common types of the international money, was approved by a unanimous vote. As to measures of verification and control, they will be specified in the arrangements between the states, and the negotiators may refer to the conventions of 1857 and 1865.

M. DE PARIEU, observing that the Baron de Hock had prepared a note upon the question, it was voted that the note be annexed to the minutes.

The VICE-PRESIDENT of the conference said the twelfth question was proposed in case the delegates did not agree on any of the principles laid down in the first part of the list. As this did not happen, and the question of a standard was unanimously agreed upon, the conference decided that the twelfth question be suppressed.

On motion of his IMPERIAL HIGHNESS, the conference adjourned till Tuesday, the 2d of July, in order to come to an understanding upon the best means to realize the desires of the conference.

The sitting closed at half past twelve, noon.

NAPOLEON, (JEROME,  
*Prince, President of the Convention.*

CLABRY, *Secretary of the Conference.*  
ROUX, *Secretary Adjunct.*

## FIRST APPENDIX TO THE MINUTES OF THE SIXTH SITTING.

*Note, or written argument, presented by Mr. Ruggles, delegate from the United States of America, at the sixth sitting, on the 28th of June, 1867.*

The delegate from the United States of America proposes that France shall issue a 25-franc gold piece.

If it be objected that such a piece, not containing an even number of grams, would impair the symmetry of the metric system, it need only be stated that France has not, and never has had, a gold coin containing an even number of grams. The relation in value between silver and gold having been fixed by law at  $15\frac{1}{2}$  to 1, it became impossible to establish a decimal relation between the two metals; or, in other words, between the number of francs which represent only silver, and the number of grams in the coins of gold. This legal relation of  $15\frac{1}{2}$  to 1 is itself fractional, and must be doubled and carried to  $3\frac{1}{2}$  to make even numbers.

The franc is simply a monetary word, which expresses 5 grams of silver nine-tenths fine. It is the French monetary unity. Gold having a value of fifteen and a half times greater than silver, it requires  $15\frac{1}{2}$  francs each of 5 grams of silver (say  $5 \times 15\frac{1}{2} = 77\frac{1}{2}$  grams) to buy 5 grams of gold, or 155 grams of silver to buy 10 grams of gold. As 31 is the smallest even number of this relation, 31 is the smallest number of francs which can be represented by a piece of gold having an even weight of grams. No enlightened government would consent to confine its gold coinage to pieces of 31 francs and its multiples. We therefore perceive that France has made complete abstraction of metrical weight in its gold coins, not one of which weighs an even number of grams.

The gold piece of	5 francs	weighs.....	1.6125	grams.
"	" 10	" .....	3.3250	"
"	" 20	" .....	6.4500	"
"	" 50	" .....	16.1250	"
"	" 100	" .....	32.2500	"

The proposed 25-franc piece would weigh 8 grams .0625, and, in fact, would more nearly approach an even metrical weight than any French gold piece now existing.

This relation of  $15\frac{1}{2}$  to 1 is practically prescribed by the French law, which enacts that 155 ( $5 \times 31$ ) pieces of 20 francs, being 3,100 francs, shall weigh 1,000 grams, or one kilogram; but the same ratio would exist between 124 ( $4 \times 31$ ) gold pieces of 25 francs, which would also contain 3,100 francs, and would also weigh one kilogram.

The United States have never attempted to fix a decimal weight for their gold coins, although they were among the first to adopt a decimal monetary system. The present gold dollar weighs 25.8 grains troy, which is about equal to 1.671 milligrams, and exceeds the metrical weight of the French 5-franc piece about  $58\frac{1}{2}$  milligrams.

A gram of gold nine-tenths fine is equivalent in round numbers to 30 pence English, or 60 cents of the United States. Consequently,  $58\frac{1}{2}$  milligrams taken from the dollar would reduce it about  $3\frac{1}{2}$  cents, or  $292\frac{1}{2}$  milligrams taken from the half eagle of 5 dollars would reduce it  $17\frac{1}{2}$  cents, being about  $3\frac{1}{2}$  per cent.

It is needless to expatiate on the comparative merits of a decimal, a duodecimal, or a binary system, for the reason that the decimal system has become a fixed fact in a large portion of the civilized world, rendering any change practically impossible. In like manner the unification of the coinage of the world has become a question of a nature more practical than scientific in character, chiefly falling within the domain of commerce and finance.

The "international committee on uniform weights and measures and coins," charged with the preliminary study of the question, took into consideration not only what is theoretically and abstractly possible, but what is commercially and financially practicable. The subsequent duty of fixing a common coin as the monetary unit required an international conference, composed of representatives duly accredited, from the various nations, and vested with diplomatic powers.

If the labors of the international committee were to prepare the subject for a diplomatic conference, it might well state that so large a reduction as  $3\frac{1}{2}$  per cent. in the gold coin of the United States would seriously affect existing contracts, and that such a change would only be sanctioned by the government and the people of the United States in order to assure to mankind the greater and more important benefit of a common currency throughout the globe. As the expense of recoinage would be considerable, and will increase in proportion to the production of gold in the United States, the change must be made immediately if made at all. It should be remembered that the population of the United States, now near 40 millions, will probably exceed 100 millions at the close of the present century, in the short space of thirty-four years.

Long before that time the annual product of gold and silver in the United States will be greatly facilitated and increased by the completion of the Pacific railroad across the continent, and now in rapid progress, which will open outlets to both of the oceans for our widespread metallic interior, now so difficult of access. Its annual product, now nearly 100 millions of dollars, may eventually reach 300 or 400 millions. The money of the world must be unified now or never.

It is fortunate that the gold sovereign of Great Britain, around which the prejudices of the English people naturally cluster, only requires to be reduced to the value of 25 francs, a diminution of 64 milligrams in weight of fine gold, being a reduction in value of only 2 pence English, or 4 cents of the United States. In truth, the reduction to be made by Great Britain is less than one-fourth of that required from the United States.

The great and inevitable injury that must result from undue delay in unification in an epoch like the present, when the product and coinage of gold is so rapidly increasing, will more clearly appear from the following gold statistics of the three largest coining nations.

I. The United States of America, in the fifty-seven years from 1792 to 1849 next preceding the great discoveries of gold in California, coined in gold only \$85,588,038; being in francs, at five to the dollar .....	427, 940, 190
From June 30, 1849, to June 30, 1851, the two first years of the auriferous era, the issue was \$94,596,230; or in francs..	472, 981, 150
In the fifteen succeeding years, ending June 30, 1866, it was \$665,352,323; or in francs .....	3, 326, 761, 615

Total in dollars, \$845,836,591; or in francs .....	4, 227, 682, 955
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(Of this amount, \$146,923,622 was stamped in bars.)

II. The present gold coinage of Great Britain dates from 1816, the year of its reform. From 1816 to 1851, thirty-five years, there was coined in gold £96,021,151; being in dollars, at five to the pound, \$480,105,755; in francs .....	2, 400, 528, 775
In the fifteen years from 1851 to 1866, £91,047,139; being in dollars \$455,233,695; or in francs .....	2, 276, 178, 475

Total dollars, \$935,341,450; or in francs .....	4, 676, 707, 250
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III. In the fifty-eight years from 1793 to 1851, inclusive, France coined in gold \$324,492,516; or in francs . . . . .	1, 622, 462, 580
(Of this amount only \$107,605,088, or 538,024,440 francs, was coined by Napoleon I.)	
During the fifteen years from 1851 to 1866 there was coined, by Napoleon III, \$987,728,298; or in francs . . . . .	4, 938, 641, 490
Total coinage of gold by France, \$1,312,220,814; or in francs . . . . .	6, 561, 104, 070

## SUMMARY FOR THE THREE NATIONS.

Before 1851, by the United States . . . . .	\$180, 184, 268	
by Great Britain . . . . .	480, 105, 755	
by France . . . . .	324, 492, 516	
		\$984, 782, 639
From 1851 to 1866, by the United States . . . . .	665, 352, 323	
by Great Britain . . . . .	455, 225, 695	
by France . . . . .	987, 728, 298	
		2, 108, 356, 316
Total gold coinage of the three nations . . . . .	3, 093, 098, 855	
or 15,465,494,275 francs.		

If we add to this enormous sum the gold coinage of Prussia, Russia, Austria, and other important countries of Europe, we can judge of the importance of a monetary unification that would give the same circulation, the same character, and the same value to this entire mass, and of the sums which would be saved, now needlessly expended in recoinage, brokerage, and exchange.

Of the gold of these three nations, we see that France furnishes 1,312,220,814 dollars which would not require recoinage; while a considerable portion of the residue, (\$1,780,878,041,) furnished by Great Britain and the United States, would need to be recoined to unify the money of the civilized world. From the latter amount we must deduct—

1st. What has been already recoined by France, deducting the French gold recoined by Great Britain or the United States.

2d. What has been lost or used in the arts.

3d. Coins so much worn as to be reduced to the weight of the number of francs they should represent. This last reservation will apply almost exclusively to the coins of Great Britain, many of which have worn off the one per cent. of the required reduction, while very few of the coins of the United States have lost their excess of three and a half per cent.

It is, moreover, to be considered that the United States and Great Britain may continue to add, for many successive periods of fifteen years, the gold to be produced in America and Australia, which will, probably, fall little short for each period of \$655,352,323 for the United States, and \$455,235,695 for Great Britain—the amounts respectively coined during the fifteen years just elapsed. We will not dwell upon what cannot be forgotten, the possibility of a still more enormous product that would result from the more extensive developments and discoveries in the vast auriferous interior of the United States, a field as yet only partially explored.

Without going too far in measuring the gigantic monetary future in reserve for the world, we simply say that the work of unification cannot begin too soon.

It is by no fault of France, but her good fortune, that the burden and inconvenience of the recoinage and the modification of contracts will be almost exclusively borne by the United States and Great Britain, while France,

with her six milliards of gold in circulation, will share without cost in the general advantage and the honor of having unified the money of the world.

It is under these circumstances that it is asked, in the name of the United States, that France, in a spirit of wise liberality, will effectually contribute, as she easily may, to the great work of practical unification by adding the 25-franc gold piece to her present coins.

Such a coin will circulate side by side everywhere and in perfect equality with the half-eagle of the United States and the sovereign of Great Britain.

The three gold coins, types of the three great commercial nations, fraternally united and differing only in emblems, will go hand in hand around the globe, freely circulating through both the hemispheres without recoinage, brokerage, or other impediment. This opportune concession of France to the spirit of unity will complete the work of civilization she has so much at heart, and will inaugurate that new monetary era, the lofty object of the international conference and the noblest aim of a concourse of nations, as yet without a parallel in the history of the world.

#### SECOND ANNEX.—BARON DE HOCK'S OBSERVATIONS ON THE MEANS OF CONTROL.

##### *Eleventh question.*

It is necessary to fix the following principles :

1st. The money shall be coined of its full standard and weight, without abatement for coinage or any remedy; in no case must there be connected any particular interest, in view of any profit, with the fabrication of money.

2d. The kilogram shall be established as a weight for the common coins; the weights used by the mints must be made after a common normal weight.

3d. Common methods of assay and equal limits of tolerance for standard and weight of the common coins must be agreed upon.

4th. Coins of the same value must have the same diameter; they shall bear the date of the year when they were coined.

5th. When many pieces coined in the same year are found to be defective, by a process to be agreed upon, the government in default shall call in all the pieces issued in that year.

6th. An understanding shall be had as to the method of withdrawing from circulation all clipped coins, those diminished in weight beyond the limits of tolerance, or those on which the inscriptions have become illegible.

7th. It shall be held as a principle that each state shall punish violations of the monetary laws of the other states, as well as infractions of their own laws, and on this principle a monetary cartel shall be agreed upon.

#### INTERNATIONAL MONETARY CONFERENCE.—SEVENTH SITTING.

TUESDAY, *July 2*, 1867.

Prince Napoleon presiding. The sitting opened at half past eight. Present, the delegates that attended the preceding meeting and M. Fortamps, with the exception of M. Delyannis. The minutes of the sixth sitting were adopted.

M. DUTILLEUL regretted that the conference decided at its last meeting in favor of the legal currency of gold coins of five francs in the states uniting in a monetary convention. He preferred to declare those coins receivable in the public banks, and wished this opinion of his to be inserted in the minutes of the present sitting.

M. JACOB, asked an explanation of the words *cartel monétaire*, used in Baron de Hock's seventh observation, inserted at the end of the sixth report.



M. PARIEU replied that it was an arrangement between states to punish counterfeiters. He added, that in France the penal code furnished all the arms necessary to reach counterfeiters.

Chevalier ARTOM observed that all conventions of extradition contain provisions applicable to counterfeiters.

His IMPERIAL HIGHNESS then stated that the conference had reached the theoretical terminus of its deliberations. The business now is to analyze and specify the results of its labors, and then to come to an understanding about the means of arriving at a practical solution.

His IMPERIAL HIGHNESS proposed to intrust to the vice-president of the conference the care of embracing in an abridged report the facts and decisions stated in the minutes.

In regard to the means of arriving at a practical solution, they might be comprised in the three following propositions, which his Imperial Highness would submit to the conference:

1st. Ought the states to agree upon a general arrangement?

2d. Ought the countries that wish to make separate arrangements confer with the states of the convention of 1865?

3d. In any event, what must be done to arrive at a practical result? Has the time arrived for laying the question before the different governments?

Baron DE HOCK wished an understanding between special conventions and the states of the convention of 1865, and not by separate and isolated legislative measures.

Chevalier ARTOM thought that, even in a theoretic point of view, a decision should at once be made by the conference in favor of M. Hock's proposition.

Count D'AVILA, while agreeing to the general mode of proceeding proposed, did not see the necessity of a special arrangement in what concerns, for instance, Spain and the United States, both having adopted the fineness of nine-tenths, for all they would have to do would be to bring their coins to the weight of the 5-franc piece or its multiples. After doing that it would be enough for them to accede to the convention of 1865.

Baron DE HOCK insisted upon the necessity of special arrangements, as he proposed. It was not only necessary to agree upon the fineness and weight to constitute a monetary unity; the entire process, from the metallic composition to the means of control, should harmonize, and the monetary regulations in the states of the union should give assurances of stability.

M. FORTAMPS agreed with M. de Hock. When one state gives legal currency to the coins of another state, it is essential that the fineness, weight, tolerance, control, &c., should be similar on both sides. Under this implied reserve the right of accession was inscribed in the convention of 1865.

M. HERBET said the reserve had already been used. The Papal States and Greece have declared themselves ready to accede to the convention of 1865. The request was considered by the French government and submitted to the three other cosigning governments.

M. FEER HERZOG thought that accession to the treaty of 1865 ought to be the subject of a formal convention to assure identity of fabrication.

Count D'AVILA agreed with MM. Hock, Fortamps, and Feer Herzog on the necessity of assuring the identity of fabrication in all coins received in the states of the proposed union; and he thought that, as soon as these conditions were complied with and were recognized by the states that signed the convention of 1865, they should have the right of accession to the convention without any new action on the subject. It should be well understood that the arrangement will only relate to gold pieces as a universal coin.

M. JACOBI thought that the arrangement of 1865 does not expressly stipulate the adoption of gold as a standard, as voted unanimously by the conference.

Certain states should unite on this principle at first, and then the contracting states of 1865 could more easily join them. Other countries might come in afterwards.

His IMPERIAL HIGHNESS replied, it was not so easy for the French government to take the lead in the selection of a standard as M. Jacobi thought. The adoption of the gold standard, exclusively, would require a modification of the French law, and, of course, the subject would have to be laid before the legislature. The double standard had many staunch advocates in France, who would certainly oppose the withdrawal of silver from circulation. At least it would be very useful for the government to rely on diplomatic arrangements, already concluded, showing that the principle of the single standard is admitted both in theory and practice by many other states, when the subject is laid before the legislature. It is a simple subject for domestic consideration.

M. PARIBU thought the interest of the states alone would be sufficient to bring about a diplomatic arrangement. It may not be necessary for the conference to decide this question absolutely. In fact, the countries that think proper to revise their interior legislation at once, introducing the principles adopted by the conference, would not hesitate to solicit an accession that would insure the benefits of internationality to their new coins.

The Papal States and Greece have acted in this manner; the pontifical government, in particular, that had placed the monetary regulations of the Roman States in harmony with the convention of 1865, with some differences as to what concerned the admission of a division of 2 francs 50 centimes, soon renounced the last provision in order to accede to the convention in question.

M. KERN thought that despite the favorable dispositions shown by many countries, a general understanding upon the application of the principles admitted must take place slowly, by successive accessions to the states that composed the monetary union of 1865.

Mr. RUGGLES seconded Baron Hock's motion, so far as his instructions would allow. He said that on the 27th of May last, when M. Berthemy, the French minister in Washington, invited the government of the United States to participate in the present conference, he declared that its object was to exchange views and discuss principles, but added this important clause, "to seek for a basis for further negotiations." By reason of that communication, Mr. Seward, the Secretary of State, empowered him (Mr. Ruggles) "to represent the government of the United States in the proposed conference to the extent and in the spirit of the letter of the French minister above mentioned."

Neither in terms nor spirit does that letter limit the labors of the conference to the discussion of abstract principles; on the contrary, it plainly declares the principal object of the conference to be "to seek for a basis for further negotiations."

Fortunately, this end has been attained. The conference has sought out and discovered the desired basis, not a vague, changeable, and uncertain one, but the basis of a fixed and fundamental system, the principal points of which are these:

First, a single standard of gold; second, coins of equal weights; third, coins of equal fineness; fourth, coins divided according to the decimal system; fifth, 5 francs as the unit.

The propagation of a system thus defined would practically complete the labors of the conference. The details of application could not be attended to at present; they should be regulated by some subsequent conference, or by the different states separately.

M. WALLENBERG wished to mention a remarkable fact. By a ukase of the 11th November, 1865, the Russian government introduced a monetary system in Finland almost identical with that of the franc, the difference not exceeding the limits of toleration. Now, if the Russian government would extend these

provisions to the other provinces of the empire, an important assimilation would be realized.

He added that, in his opinion, a general understanding should be had only on gold coins, upon the basis of the convention of 1865. Each state would be free to coin its silver change as it pleased.

M. PARIEU proposed this paragraph, which he thought would be acceptable to all the delegates:

"The conference expresses the hope that the measures taken by the governments of the different states to modify their monetary system, in conformity with the basis laid down by the conference, may end in diplomatic conventions."

The paragraph was unanimously adopted.

His IMPERIAL HIGHNESS suggested the fixing of a time for the different governments to make known their decisions upon the resolutions voted for by their delegates, and the ultimate steps to be taken.

M. KERN thought it should be put off till the end of the year, or till November, so as not to hurry the governments in their decisions. After the expiration of that term, there might be no occasion to call the whole conference together; the French government could invite the states that should express a desire to enter into negotiations immediately to send delegates to a new conference.

Chevalier ARTOM and M. WALLENBERG proposed a delay of three months.

Mr. RUGGLES said the government of the United States could not give a positive answer till the subject had been submitted to Congress, which would not meet before the 1st of December next; he therefore proposed to fix the term for the 15th of May, 1868.

M. MEINECKE would report to the Prussian government as soon as the labors of the conference were closed; but he was sure the answer could not be positive unless sufficient time was granted, because his government could not decide the question without consulting the North German Confederates and the governments that signed the convention of 1857.

M. HERMANN assented, as far as Bavaria was concerned.

M. VROLIK wished the term to be more than three months, and added that Holland could not decide till it learned the intention of the German states.

Count D'AVILA said it was well to avoid every act that would embarrass the free action of the governments. Let the French government communicate the resolutions voted by the conference to the different states, request a prompt answer, collect the answers, and then call a new conference, if necessary; that was the best thing to be done.

M. KERN agreed to it, adding that the French government might agree beforehand about that convocation with the other states that signed the convention of 1865.

M. JACOBI was of the opinion that the states that have signed that act ought to form but one group in agreement, so as to give but a single answer.

His IMPERIAL HIGHNESS saw no objection to accepting Count d'Avila's proposition, and concurred in the remarks of M. Kern and M. Jacobi, but he still thought it well to fix a certain delay.

M. HERBET proposed to fix upon the longest delay, with the right to anticipate it in diplomatic language, by adding, "within six months, or sooner if possible."

MM. FORTAMPS and WALLENBERG insisted that the delay should not be too long. It was not necessary to present the question to the legislatures of the different countries before the governments made known their intentions. As often happens, the negotiation could take place, then the diplomatic act in consequence could be submitted to the legislative assemblies, according to the constitutional forms of each state.

His IMPERIAL HIGHNESS asked the English delegates what time they would require.

Mr. RIVERS WILSON replied that the longer the time given the greater chance

for a satisfactory answer from his government. He feared that by hurrying the decision of the English government no good would be effected. He proposed the 1st of June. Mr. Rivers Wilson added, that, on the whole, he could not promise a final decision for England at any fixed time. If the British government was disposed to adopt any measures, it would probably limit them to an inquiry to be made by a committee of the House of Commons, or by a royal commission.

Mr. RUGGLES earnestly urged the adoption of the 15th of May, 1868.

M. HERBERT thought if a state desired to treat upon the enlarged basis of the convention of 1865, before the expiration of the delay voted by the conference, no opposition should be made to its entering into immediate negotiations with one of the states signing the diplomatic act.

After discussion of the time to be fixed, his Imperial Highness put to vote this proposition of M. Parien :

"As soon as answers shall be received from the different states to the communication officially made to them of the labors of the conference by the French government, that government, in accordance with the answers that may be received, will call a new conference, if necessary.

"It is desirable that answers should be received before the 15th of February next."

The first paragraph of the proposition was unanimously adopted. The vote on the second was as follows : the following voted for the 15th of February, 1868 :

The Grand Duchy of Baden, Bavaria, Denmark, the Netherlands, Portugal, (adding, "or sooner if possible,") Prussia, Russia, (or sooner if possible,) Switzerland, Turkey, Wurtemberg.

The following voted for the 1st of October, 1867 :

Austria, Belgium, Italy, Sweden, and Norway.

The United States voted for the 15th May, 1868 ; Great Britain, for the 1st June, 1868.

France and Spain did not vote. Count Nava de Tajo said he did not vote because he was not instructed by his government, but he was sure that Spain would act with the majority.

The conference having decided all the questions it was called upon to discuss, his Imperial Highness thanked the delegates for their enlightened assistance.

It was then agreed that the conference should once more assemble to adopt the minutes of the present sitting, and to hear the reading of the report that M. Parien had been kind enough to prepare.

The sitting closed at 11 o'clock.

NAPOLEON, (JEROME,)

*Prince, President of the Conference.*

CLABRY, *Secretary of the Conference.*

ROUX, *Secretary Adjunct.*

#### INTERNATIONAL MONETARY CONFERENCE.—EIGHTH AND LAST SITTING.

SATURDAY, *July 6, 1867.*

Prince Napoleon presiding. The sitting opened at 1 o'clock. Present, the delegates that attended the last meeting, and M. Delyannis, with the exception of Messrs. Kern, Vrolik, Viscount Villa-Maior, Meinecke, and Graham.

His excellency Mihran-Bey-Duz, member of the grand council of justice, director of the mint of Constantinople, delegate from the Ottoman government, whose arrival in France was delayed, and who had been temporarily represented by Colouel Essad-Bey, took his place among the members of the conference.

The minutes of the seventh sitting having been adopted, on invitation from

his Imperial Highness, M. de Parieu read the following report, which he had been instructed to prepare at the last sitting :

Monseigneur and gentlemen: In the month of December last, when the French government communicated the international convention of the 23d December, 1865, to the states here represented, and called their attention to the grand idea of monetary uniformity, those communications were at first received with a certain hesitation in some particulars. We have been, perhaps, too long accustomed to consign many generous ideas, sustained only by common sense, to the region of dreams, leaving them to be buried by prejudice and the blind consideration of the immutability of existing facts. We all know that every enterprise of general interest requires a spirit of unity in its aims and principal means of accomplishment.

There were many points in the monetary question so difficult that they caused divisions in the doctrines and the views of the past.

The idea of monetary uniformity long languished in the aspirations of poets and economists. The members of the convention of the 23d of December, 1865, encouraged by the success of their labors, warmly welcomed the practical idea of their extension; and on witnessing the success of the monetary union concluded between France, Belgium, Switzerland, and Italy, notwithstanding the false situation caused by the forced circulation of paper in one of the states, it was hard for the government that had presided over the conference of 1865 to refrain from asking the support of the world for a more extended monetary uniformity.

The minister of foreign affairs has told you how much the imperial government was pleased at the eagerness of all the sovereign states of Europe, and of the government at Washington, in sending delegates to the conference proposed to them. In giving to the assembly a president whose great name, exalted position, manifest impartiality, and decided sympathy for monetary uniformity, have given our discussions a brilliancy and importance that we could not expect from our own resources, it has complimented you more highly than could be done by words, and has thanked you all, men distinguished for diplomatic merits, economical science, or technical experience in the monetary art, for the earnest welcome you have given to the ideas you were called together to examine.

What was the precise object of your conference, the nature of the questions it was to expound?

This, gentlemen, was the first object of your reflections, and upon it the success of your meeting depended. The government of the Emperor might prepare the studies, but it could not fix the terms.

Monetary science is vast; many of its problems are debated by philosophers. Not one could be avoided: appeals were to be made to reality, the only solvent of such problems, and the one of particular importance in the subject now before us for consideration.

At the trade conference of 1864, in Frankfort, it was truly said, "monetary questions are more practical than all others."

The chief question for examination was the monetary standard.

On this subject you are aware that the world is divided between three different systems, the gold standard, the silver standard, and the double standard. It was indispensable to know which of these forms would furnish the most desirable and permanent basis for a monetary unity.

Governed by these considerations, you have agreed upon a series of questions as the basis of your labors, on the report of a committee of seven members, in the formation of which all the systems had been equitably represented.

This "questionnaire," to adopt a neologism of our administrative language, you unanimously adopted in the following terms:

"1st. What is the best way to realize monetary unity—by the creation of



an entirely new system independent of existing systems, and in that case what should be the basis of that system; or, by the combination of present systems, taking into consideration the scientific advantages of certain types, and the number of nations that have already adopted them? In the latter case what monetary system ought to be chiefly considered, with the reserve of any improvement that might be made in it?

2d. Can identities or partial assimilations of monetary types be now constituted on a large scale by adopting the silver standard exclusively?

"3d. On the other hand, can that result be reached by adopting a gold standard exclusively?

"4th. Could a similar result be attained by adopting the double standard and fixing in all the nations the relative value of gold and silver?

"5th. In case of a negative response to the preceding questions, is it possible or expedient to establish identity or partial assimilation of monetary types on a large scale with a silver standard, leaving each state the liberty of preserving its gold standard?

"6th. Is it possible and useful to establish identity or partial assimilation of monetary types on a gold basis, leaving each state the liberty of preserving its silver standard?

"7th. In case of affirming one of the two preceding questions, would the internationality of the coin adopted as a common standard be a sufficient assurance of its continued circulation in each state; or would it be necessary to stipulate a certain limit in the relation between the value of gold and silver, or to provide for the case in which international coins would run the risk of being expelled from circulation in any of the contracting states?

"8th. For the success of monetary unity is it necessary to constitute an identical unity of metallic composition everywhere with similarity of weight and denomination, and what basis is to be adopted; or is it enough to constitute common types of a common denominator as high as multiples of 5 francs for gold?

"9th. In case gold is adopted as an international metal, would it be useful for the types of that coin adopted by the monetary convention of the 23d of December, 1865, to be completed by new types of 15 and 25 francs for the sake of unity and in the spirit of reciprocity? In this case, what should be their dimensions?

"10th. In case of affirmative to questions three or six, would it be useful to regulate silver or copper coins by common obligations as to their composition or standard, their limit in payment, or the amount of their issue?

"11th. Would it be proper to fix certain means of control to insure the exact coinage of the common types of the international money?

"12th. Besides the immediate practical possibilities already discussed, would further discussions of general principles be desirable to spread over Europe the assimilations already effected or hereafter to be realized in respect to money?"

Although no idea of exclusion has entered into this "questionnaire," it is remarkable that its discussion during five sittings has suggested no serious addition; on the contrary, the 10th and 11th questions you have put off, although the principle of measures of control has been judged indispensable to the success of the monetary conventions, and the 12th question was left undecided.

The decisions of the conference, as a whole, have been regulated by the dominant desire that any future monetary legislation shall result, as far as practicable, in diplomatic conventions between different states, to secure them against their own inconstancy. It is the evident interest of the states to secure the political advantages of the assimilation of their monetary types by the reciprocal circulation of their coins.

You did not think the reciprocal circulation in public banks, as resolved upon in 1865, completely answered the aspirations for a monetary uniformity; and,

contrary to some reserves found in your minutes, you thought legal currency ought to be considered the last word in the tendencies to unity.

The nine first questions of your sittings are comprised in three formulas too abstract to be discussed, and I will reduce them to their simplest form of expression.

The whole world agreeing upon the benefits to be derived from monetary unity, but the difficulties and delays of effecting it being very apparent, the question is, how can it be effected? By the creation of a new monetary system established *a priori*, or by strict adhesion to existing systems, or simply by bending them, so to speak, and perfecting them hereafter?

Such was the triple problem proposed for your solution.

All of your states, except Belgium, have agreed not to propose a new system, lest such an undertaking might indefinitely delay the desired monetary assimilation.

A new system would have probably been founded upon the adoption of a decimal gold piece of a certain weight as a unity. You do not say that such a regularity could be attained without difficulty, however beautiful it might be in theory, and without disturbing inveterate habits found in the attachment to the silver franc, almost a copy of the old French *livre tournois*.

Instead of seeking a system new in all its parts, you have preferred to adopt that of the monetary convention signed at Paris on the 23d of December, 1865, and which being now adopted by Rome and Athens, seems by a fortunate coincidence to reunite the greater portion of the countries in which at the close of ancient history, civilization by various modes had marked out the perimeter of its first empire.

The close union of this system, in its silver coins, with the metrical weights, whether the coins be considered as a distinct standard or as small change, and the 72,000,000 of people that use it and are attached to it, have made you regard it as a centre of assimilation around which the efforts of other nations might cluster with probabilities of success. But you did not look upon the system as fixed and perfect.

You rightly thought it capable of contraction or extension; that, though the unit was called a *franc* here, a *lira* there, and a *drachma* elsewhere, still a greater latitude was possible, particularly in regard to the unit value.

Most of the civilized nations have a monetary unity above a franc in value. The piastre, the thaler, the ruble, and the dollar, four pieces similar in origin and name, are nearly the quadruple or quintuple of the unit adopted in the convention of 1865.

If the German and Dutch florins and the Spanish crowns differ less from the franc, on the other hand the wealthy British civilization places its monetary unit much higher in value.

Though the small Roman state has converted its *scudo*, similar to the piastre and dollar, into francs, we can hardly hope that larger and more populous states will immediately adopt all the monetary unities we have reported in the convention of the 23d of December, 1865. You have, therefore, thought proper to suggest a single unit as a common denominator, borrowed, from the system of the convention, around which the other unities should circulate.

If silver had been adopted for the unitary basis, all other systems might have been assimilated to the franc as a common denominator. But could the silver franc have been the pivot of equations, commensurabilities and coincidences desired in the monetary systems we would like to make universal for the benefit of exchange, trade, travel, financial, statistical, and scientific operations? To a certain extent, this was the chief question for your deliberations.

Here the laws that brought the precious metals into contact with the wealth of communities, and which have twice given a monetary system to the universe,



came into consideration. The rule of these laws was broken by the great historic catastrophe that separated ancient from modern civilization by an intermediate period of poverty and barbarism, but now strikingly reproduced after a lapse of nearly eighteen centuries.

In the time of Augustus, when gold had gained the ascendancy in money circulation, the Roman poet exclaimed:

*Æra dabant olim; melius nunc omen in auro est,  
Victaque concedit prisca moneta novæ.*

From the middle ages to our day, the revolution that Ovid mentions incompletely, for he omits silver, has lain quiet, till it breaks out now with renewed strength and peculiar mineralogical, industrial, and commercial circumstances. No new invasion of barbarism can reverse its course in Europe, where silver first took the place of iron and copper, and where silver is now displaced by gold.

In most of the civilized nations of Europe and America the latter metal has become the principal instrument of circulation, because its portability and density particularly recommend it as the material for monetary unity. When the convention of the 23d September, 1865, closed, three of the associate states wished gold to be the choice of the convention. Even in the last century, a learned man of Germany, where so many grand ideas originate, declared that gold was destined to become the bond of the monetary systems of the universe.

By a most singular coincidence, when only two out of twenty states had gold for a standard, your conference decided upon it for the standard, with silver as a transitory companion; and this was done because the double standard was necessary in certain states that were used to it, or where silver was the exclusive standard.

This valuable unanimity on a question so important, tending to perfect the monetary system of the convention of 1865, will certainly influence public opinion, and certain men in the interior of states who may have retained any doubt on the question.

In thus adopting gold as a basis for the desired union, it was only in a common denominator above the franc that it was possible to realize the useful equations and frequent coincidences in the systems to be brought together; for, in gold coins, the very minute differences could not be distinguished with precision by the process of coinage, and already the mere distance of five francs may be sometimes difficult to express sufficiently in the external form of the monetary disks.

The weight of five francs in gold of nine-tenths fineness, the standard which was unanimously approved, and also one of the conditions of the convention of 1865, then appeared to be the proper denominator for the basis of the desired assimilation between the monetary systems of the twenty states represented.

You are aware that the coins of the union of 1865 are already grouped around this denominator.

For example, it was shown how near the type of 25 francs came to the pound sterling, the half-eagle of 5 dollars, and a piece adopted by the Vienna conference to represent the value of ten florins. This type of 25 francs, especially recommended in the conference by the representatives of Austria and of the United States, has been unanimously accepted by the states that voted in the discussion of question nine, but on optional conditions.

Your opinions were more divided, in fact equally, in regard to the utility of recommending at present a gold piece of 15 francs, the approximate equation of 7 florins of the Netherlands and South Germany, and of 4 thalers of North Germany. But, without recommending this type, as you did that of 25 francs, you nevertheless agreed that, if circumstances rendered it proper, it would be open to no serious objection in itself, unless it might be in the delicacy of the process for coining it distinctly.

The eventual extension of the types of gold coins would necessitate, *a fortiori*, for the states that desired it, correlative latitude in the forms of their silver coins, the internationality of which is of less importance.

Such, gentlemen, are the simple but instructive and plain bases that you have thought proper to accept as a sort of siege to the citadel of monetary diversity, the fall of which you would like to behold, or, at least, to gradually destroy its walls, for the benefit of the daily increasing commerce and exchanges of every description among the different members of the human family.

The desire of not detaining you longer, gentlemen, after a session of three weeks, is my apology for the imperfection of this hastily written digest, which is made in the hope that some decision may be reached by the middle of February, 1868, or at least some instructive steps taken by the governments that have sent you to this conference.

If the germs of our collective, enlightened and benevolent aspirations, freed from the unpleasant compensations that sometimes attend the most seductive reforms, in which we are all animated by the true spirit of civilization and modern progress, shall come to fructify around you, I hope, gentlemen, you will pleausably recall the honorable memories of the part you have taken in these delicate scientific discussions, with the satisfaction of their joint pursuit, under a presidency so memorable, and with a facility and harmony as perfect as that of delegates from a single nation in its ordinary deliberations.

E. DE PARIEU,

*Vice-President of the International Monetary Conference.*

After the interchange of a few observations, the terms of M. Parieu's report were unanimously approved by the conference.

Baron DE HOCK then pronounced the following address :

Monseigneur: In the name of the foreign members of the conference, I have the honor to present you their most sincere homage for the wisdom, the profound knowledge of the cause, the assiduity and the energy with which you have been pleased to direct our labors, and to thank you most respectfully for the kindness and indulgence of your highness in accepting our observations and our counsel.

Allow us also, monseigneur, to express our thanks to the honorable M. de Parieu, who presided over our first conferences, and who has since aided your highness with so much intelligence and circumspection. We reverence him as one of the authors of the convention of the 25th December, 1865, which is destined to become the basis of universal monetary unification, and as an eloquent and profound writer, whose essays have played a part so important in the propagation of the noble and luminous idea that has been the subject of our discussion, and who by his remarkable report of to-day has become the *protagoniste* of our conference.

I am also instructed to thank Messrs. Clavery and Roux, the secretaries of the conference, for the perspicacity and precision with which they have recorded our speeches in the minutes.

Your highness may be assured that the hours we have passed under your illustrious presidency will forever be precious memories for us all.

We venture to request you, monseigneur, to be the interpreter of our most devoted thanks to his Majesty the Emperor, whose name presides over all that accomplishes greatness in France.

PRINCE NAPOLEON, having expressed his personal thanks, and those of the board, for the sentiments uttered by Baron de Hock, said he would take pleasure in being interpreter for the commission with the Emperor, who has always taken a lively interest in its labors.

Finally, his Imperial Highness advised all the delegates, in pressing terms, to

exercise all their influence, when they returned to their respective nations, to carry the decisions they have adopted into some practical result.

The minutes were then approved, and his Imperial Highness pronounced the close of the labors of the conference.

NAPOLEON, (JEROME,)

*Prince, President of the Conference.*

CLAVERY, *Secretary of the Conference.*

ROUX, *Secretary Adjunct.*




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*Mr. Berthémy to Mr. Seward.*

[Translation.]

LEGATION OF FRANCE TO THE UNITED STATES,  
*Washington, August 28, 1867.*

SIR: The international monetary conference, which assembled at Paris on the 17th June last, has recently ended its labors. It was not formed, as you know, with a view to concluding a diplomatic arrangement, but it was to take note of the difficulties which the unification of the monetary systems would encounter, then to seek the means for smoothing them away, and in some sort lay down bases for ulterior negotiations.

The delegates of twenty states represented at the conference have come to an understanding on the essential elements of a solution of the problem confided to their investigation. Judging the adoption of an entirely new system to be impracticable, they have indicated the convention of the 23d December, 1865, between France, Belgium, Italy, and Switzerland, saving some modifications, as adapted to serve as a point of approximation; they have decided, with reserve of some measures of transitory nature, in favor of an exclusive standard of gold; they have recommended the standard of fineness at nine-tenths, and the five franc piece as the common denominator of coin in universal use; they have, in fine, pointed out the necessity of securing perfect sameness of coinage by some controlling measures, as well as the propriety of proceeding by means of diplomatic conventions to the projected unification.

These declarations borrow special importance from the very composition of the conference and from their unanimity.

The governments now have to appreciate them and to make known the decisions which they shall believe they ought to make on the subject of the resolutions suggested by their delegates.

It has been understood in this respect, at the seventh sitting, that the government of the Emperor, representing the group of states signers of the convention of the 23d December, 1865, would notify the wishes of the international commission to the different cabinets; would collect their replies, and would again call together, if there should be ground for it, those of them that should appear disposed to apply the principles which they should have approved.

In conformity with this arrangement, the government of the Emperor has already sent to the federal government, through the medium of its representative at Paris, the collection of the minutes of proceedings of the conference, and invites me to-day to call your attention to the wishes which are expressed in these protocols, and to set forth to you the desire it must have to learn the result of the investigation to which the labors of the conference will have been submitted, without ignoring, nevertheless, the fact that the cabinet of Washington will not be in a position to express officially its opinions without having submitted the question to Congress.

Declarations so remarkable for their clearness, as for their conciliating and

liberal character, as those put forth by Mr. Samuel B. Ruggles, in the interest of the unification which it is proposed to realize, have been highly appreciated by the government of the Emperor, and if, as I have ground to hope, the government of the United States should ratify the votes of its delegate, the example given by so great a country will certainly be followed by other states.

Accept, Mr. Secretary of State, the assurances of my high consideration,  
**BERTHÉMY.**

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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*Mr. Seward to Mr. Berthémy.*

DEPARTMENT OF STATE,  
 Washington, September 16, 1867.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, upon the subject of the proposed improvements in the systems of national coinage, looking to a practical international unification; and in reply to inform you that the matter will receive attentive consideration, and the views of the legislative and executive branches of this government will be communicated to that of France at the earliest practicable period.

The reports of the proceedings of the recent conferences are undergoing a careful examination by the Secretary of the Treasury, with a view to such recommendations being made to Congress as may seem called for at the next regular session of that body. The favorable impression created by the course pursued by the American delegate at the conferences above referred to is gratifying to this government.

I beg, sir, that you will accept renewed assurances of my highest consideration.  
**WILLIAM H. SEWARD.**

M. BERTHÉMY, &c., &c., &c.

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*Mr. Seward to Mr. Berthémy.*

DEPARTMENT OF STATE,  
 Washington, September 30, 1867.

SIR: I have the honor to recur to your note of the 28th of August last, in relation to the deliberations of the international conferences which have been held at Paris recently, having in view the adoption of measures which will secure a practical unification of the coinages of the world, and I beg your attention and that of your government to the enclosed copy of a letter of the 26th ultimo from the Hon. Hugh McCulloch, the Secretary of the Treasury, expressive of his views and intentions in relation to this interesting and important question.

Accept, sir, a renewed assurance of my highest consideration.  
**WILLIAM H. SEWARD.**

M. BERTHÉMY, &c., &c., &c.

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*Mr. McCulloch to Mr. Seward.*

TREASURY DEPARTMENT,  
 September 26, 1867.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, enclosing the translation of the note from M. Berthémy, the minister of

France, addressed to you, embodying the result of the proceedings of the international monetary conference which assembled at Paris on the 17th June last, to discuss the subject of the unification of the different monetary systems of the different nations of the globe, and to lay down a basis for future conferences. This conference proposes by means of diplomatic conventions to secure a uniform system of coinage in value, differing only in name and superscription, of exclusive gold standard, nine hundred (.900) fine, the unit to be the weight of the five-franc piece.

I heartily congratulate the conference upon the result of its labors, and do not doubt that from its discussions will result hereafter an international system of coinage so simple that the commercial values of foreign exchange, now so complicated, will be readily understood by every citizen. A consummation so desirable has my cordial concurrence, and while at the present time expressing no opinion upon the plan proposed by the conference to which you refer, I shall take great pleasure in presenting the subject to the Congress of the United States when it shall assemble in November next.

I have the honor to be your obedient servant,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

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*Mr. Ruggles to Mr. Seward.*

[Extract.]

NEW YORK, October 4, 1867.

SIR: On the 18th of July last, the undersigned, delegate from the United States of America to the international monetary conference at Paris, transmitted to the Department of State a statement of the proceedings of the preliminary "international committee on uniform weights, measures and moneys," of which he was a member.

That communication he proposed to follow by a full report of the discussions and conclusions of the international monetary conference, which had recently adjourned.

Several weeks' delay were unavoidably experienced in the necessary revision by the officers of the conference of the "*procès verbaux*," or exact reports of their proceedings and decisions; but the undersigned is now enabled to transmit to the Department of State duplicate copies of the corrected report, printed in folio, which he has recently received, through the French consulate at New York, from M. Clavery, principal secretary of the conference.

Meanwhile the undersigned has supposed that the proof-sheets of the "*procès verbal*" of each "*séance*," or sitting of the conference, which he had expedited from Paris to the Department of State, were sufficiently full and accurate to possess the government at Washington with the plan of monetary unification agreed upon by the conference to be proposed to the nations represented, and also with the proceedings and discussions which led to its adoption.

The undersigned has duly received from the Department of State a copy of the communication of the 28th of August last from his excellency M. Berthemy, minister plenipotentiary at Washington from the government of France, asking in its behalf to be informed of the conclusions, if any, to which the government of the United States might have arrived in respect to the plan of monetary unification proposed by the conference.

He has also received a copy of the answer of the 16th of September last, by the Secretary of State, assuring the government of France, through its minister-



that the views of the legislative and executive branches of the government of the United States would be communicated at the earliest practicable period.

The despatch of the Secretary of State, of the 31st of May last, empowering the undersigned to represent the United States in the international monetary conference, directed him to add to his report of the proceedings and conclusions of the conference "such observations as might be useful." He has had the opportunity since the adjournment of the conference more carefully to collect and arrange some of the facts and considerations, historical and statistical, bearing on the subject, but not fully developed in the discussions of the conference, confined, as they necessarily were, to the proper mode of unifying the coin, without expatiating at all at large on its effects.

In view also of important movements recently made by some of the European nations for negotiating treaties on the monetary basis proposed by the conference, the undersigned will avail himself of the permission of the Department of State to submit these additional facts and considerations in a further communication, which he will transmit from Paris in sufficient season for the examination of the Secretary of State before the next meeting of Congress.

He takes the present opportunity gratefully to acknowledge the favorable notice taken in the correspondence above referred to, between the Secretary of State and the minister of France, of the course which he deemed it proper to pursue in the conference in representing the interests of the United States as connected with monetary reform.

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With high respect,

SAMUEL B. RUGGLES.

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*Mr. Seward to Mr. Ruggles.*

DEPARTMENT OF STATE,  
*Washington, October 25, 1867.*

SIR: Your letter of the 4th instant, and the accompaniment to which it refers, were duly received. The historical statement which you propose to prepare will be looked for with much interest.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

SAMUEL B. RUGGLES, &c., &c., &c.,  
*Paris, France.*

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[Translation.]

OFFICE OF THE PRESIDENT OF THE  
COMMISSION ON COINS AND MEDALS,  
*Paris, November 5, 1867.*

MR. PRESIDENT: The relations which Mr. Ruggles has held with the persons designated, during the continuance of the Universal Exposition, to consider monetary questions, have induced him to seek the means of establishing connections between the monetary systems of France and the United States. With this object he has asked me to cause to be struck at the mint of Paris pieces of an international type, corresponding to the value of 5 dollars and to that of 25 francs.

The administration of the mint has the more readily acceded to this desire, inasmuch as the 5-dollar or 25-franc piece, without introducing any change in the monetary systems of the two countries, would make the conversion of values



between them more easy, and would tend to develop still more the commercial relations which it is to their reciprocal interest the more and more to extend.

Permit me, then, Mr. President, to send to you, through the medium of Mr. Ruggles, a specimen of those pieces (coins) as a proof of the wish of every enlightened man to see the exchanges made more easy between the new and the old continent, and of the natural desire with which my position inspires me, to see the monetary accord established between France and the United States, which already exists between her and other countries.

I am, with profound respect, Mr. President, your most obedient servant,

V. DUMAS,

*Senator and President of the Commission on Coins and Medals.*

His Excellency the PRESIDENT of the United States.

EXECUTIVE MANSION,

Washington, November 27, 1867.

SIR: The letter which you addressed to me on the 5th of November, together with a specimen of the projected five-dollar gold coin, has been delivered to me by Mr. Samuel B. Ruggles. The effort to produce a common coin for the use of the nations, which has engaged the attention of the French government, commends itself to the favor of legislators and statesmen throughout the world.

With thanks for your kind attention, I am, sir, with high respect,

ANDREW JOHNSON.

V. DUMAS,

*Senator and President of Commission of Coins and Medals, Paris.*

*Mr. Dumas to Mr. Seward.*

[Translation.]

OFFICE OF THE PRESIDENT OF THE

COMMISSION ON COINS AND MEDALS,

Paris, November 5, 1867.

MR. MINISTER: The relations which Mr. Ruggles held with the persons invited, during the continuance of the Universal Exposition, to engage their attention with monetary questions, have led him to investigate the means for the establishment of a connection between the monetary system of France and the United States.

With this purpose he has asked me to cause to be coined at the mint in Paris some coins of international type, corresponding in value with 5 dollars and 25 francs.

The administration of the mint lent itself the more readily to this wish, because the coin of 5 dollars or of 25 francs, without introducing any change into the monetary systems of the two countries, will render more easy to them the conversion of values, and will tend to develop still more the commercial relations which it is their reciprocal interest to extend as far as possible.

Permit me, therefore, Mr. Minister, to send you, through Mr. Ruggles, a specimen of these pieces in testimony of the wish which every enlightened man should experience in perceiving exchanges rendered more easy between the new continent and the old, and in the natural desire, with which my position inspires me, to see established between France and the United States that monetary accord which already exists between it and other countries.

Receive, Mr. Minister, the assurance of my high consideration.

V. DUMAS,

*Senator and President of the Commission on Coins and Medals.*

The SECRETARY OF STATE of the United States.

DEPARTMENT OF STATE,  
Washington, November 27, 1867.

SIR: I have the honor to acknowledge the attention you have shown me in transmitting a specimen of the international coin, which has been proposed with a view to the establishment of a common money standard throughout the world. The statements of the President of the United States and my own upon this interesting subject have already been correctly interpreted to you by our representative, Mr. Samuel B. Ruggles.

With many thanks for your courtesy, I have the honor to be, with great respect, your obedient servant,

WILLIAM H. SEWARD.

His Excellency V. DUMAS,

*Senator and President of Commission on Coins and Medals, Paris.*

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*Report to the Department of State by Samuel B. Ruggles, delegate from the United States in the International Monetary Conference at Paris, 1867.*

PARIS, November 7, 1867.

SIR: On the 4th of October last, the undersigned transmitted to the Department of State duplicate copies duly corrected and verified of the *procès-verbaux*, or official reports, of the eight successive *séances*, or sessions, of "The International Monetary Conference," at Paris, terminating on the 6th of July last.

The government of France, at the request of the conference, undertook the duty of transmitting to the different nations, through their delegates in the conference, copies of these official reports. The general features of the plan of monetary unification agreed to by the conference have been already reported to the Department of State. Briefly repeated, they are as follows:

1. A single standard, exclusively of gold;
2. Coins of equal weight and diameter;
3. Of equal quality, (or *titre*,) nine-tenths fine;
4. The weight of the present five-franc gold piece, 1612.90 milligrams, to be the unit, with its multiples. (The weight of the present gold dollar of the United States is 1671.50 milligrams. The value of the excess over the five-franc gold piece, 58.60 milligrams, slightly exceeds 3½ cents. To encourage the reduction of the United States half-eagle and of the British sovereign to the value and weight of 25 francs, the conference unanimously recommended the issue of a new coin of that weight and value by France and the other gold-coining nations. The reduction in value of the half-eagle would slightly exceed 17½ cents; in the sovereign, 4 cents.)

5. The coins of each nation to continue to bear the names and emblems preferred by each, but to be legal tenders, public and private, in all.

The conference further requested the government of France to invite the different nations to answer, by the 15th of February next, whether they would unite in placing their respective monetary systems on the basis indicated by the conference, as above stated; and after receiving their answers, to convene, if necessary, a new or further conference.

A further resolution of the conference recommends that the measures of unification which the nations may mutually adopt be completed, as far as practicable, by diplomatic conventions.

By these proceedings and official reports, the whole question of monetary unification is now distinctly presented for consideration and decision to the governmental authorities of the United States, executive and legislative.

The communication from the Department of State to the undersigned, of the

30th of May last, empowering him, within the limits therein stated, to represent the United States in the conference, directed him not only to report its proceedings and conclusions, but to add such "observations as might seem to be useful." He therefore respectfully submits the following additional report, mainly explanatory of the grounds taken in the conference in behalf of the United States, but embodying statements which may possibly facilitate to some extent the examination of the subject by the government.

1. All the independent sovereignties of Europe, with the possible exception of some small portions of northern Germany, were represented in the conference by delegates duly accredited. The delegates from Prussia appear on the roll as representing that power only, but from the fact of their repeatedly abstaining from voting on certain questions in the conference "without the consent of the Confederated States," they were practically considered as representing all the states and communities of northern Germany now confederated with Prussia. There were no separate delegates from the kingdom of Saxony, or either of the Hanseatic cities of Hamburg, Bremen, Lubec, or Frankfort. There were separate delegates from Baden, Wurtemberg, and Bavaria. None of the nations west of the Atlantic were represented, except the United States of America.

The nations appearing by delegates in the conference were entered alphabetically on the roll, in which order they voted. A copy of the roll is hereto subjoined. Including Sweden and Norway as one, they were nineteen in number, being—

Austria,	Italy,
Baden,	Pays Bas, (Holland,)
Bavaria,	Portugal,
Belgium,	Prussia,
Denmark,	Russia,
Espagne, (Spain,)	Sweden and Norway,
Etats Unis, (United States of America,)	Switzerland,
France,	Turkey,
Great Britain,	Wurtemberg.
Greece,	

Their aggregate population, European and American, a little exceeds three hundred and twenty millions. The population of the dependencies of these nations in Asia is estimated at one hundred and ninety millions. There were no separate delegates from any portion of the West or the East Indies, not even from Australia, which had been separately and conspicuously represented in the International Statistical Congress, at London, in 1860, and which still plays a part so important in furnishing gold to British India and other oriental countries.

It is, indeed, specially noticeable in the reported discussions of the conference how little account was made of that populous quarter of the globe in estimating the world-wide advantages of a common money; and this omission has become more worthy of remark from the circumstance that information reached Paris, soon after the adjournment of the conference, that measures were in actual progress, at Peking, for striking, for the use of the immense population of China, coins of the weight and value respectively of twenty francs, of five francs, and of one franc, bearing on their face the head of the Chinese Emperor, thereby assimilating the money of the Celestial Empire to that of Europe.

The interesting fact is stated in a historical report (recently published by a member of the British embassy) of the money of Japan, that it possesses a coinage of gold and silver in some essential features resembling that of France, particularly in a double standard, under which the ratio of silver to gold is fixed at  $13\frac{1}{2}$  to 1.

It appears that, in ignorance of the actual relative values of the two metals in our Atlantic world, (of 15 or 16 to 1,) these pagan Asiatics had fixed the

ratio at only 4 to 1, which great exaggeration of silver they were furthermore induced to continue by a treaty in 1858, under which they were rapidly despoiled of their gold in large quantities by some of the traders from Christian nations. The partial correction of the mistake in 1860, by raising the ratio to  $13\frac{1}{2}$  to 1, (if any ratio fixed by governmental regulation be admissible at all,) shows an advance of intelligence in this distant region, inspiring the hope that, in due time, at least a portion of eastern Asia may be brought within a world-embracing and world-protecting belt of monetary unification.

The British colonies in continental North America, recently consolidated by imperial authority in the "Dominion" of Canada, were represented in the conference only as a part of the British empire by the delegates from the United Kingdom. That young but rising power, though remaining in form a colonial dependency, now possesses, under the 91st section of the act of the imperial Parliament of the 29th of March, 1867, the sovereign and "exclusive legislative authority" to regulate its own "currency and coinage," already much assimilated to the decimal system of the United States. The deep interest in the success of the pending measure of unification manifested by Mr. Bouchette and other intelligent Canadian officials, who were at Paris to superintend the exhibition of the products of their country, affords ground for believing that the general conclusions, and the basis now proposed by the conference, will command the ready assent and co operation of that active and interesting portion of the North American continent.

Of the Mohammedan nations, the Ottoman empire was represented in the conference by his excellency Djemil Pacha, its ambassador extraordinary and plenipotentiary to the court of France. With him was associated the Colonel Essad Bey, the military director of the Ottoman academy in Paris, who had moreover officially represented his government in the preliminary "international committee on uniform weights and measures and coins," in which body he had manifested a marked desire that the proposed monetary reform might include the coinage of Turkey. At a later stage of the conference his excellency Mihran-Bey-Duz, member of the Grand Council of Justice and director of the mint at Constantinople, whose early arrival had been unexpectedly retarded, appeared and took his seat as a member.

The ambassador to France from Persia, (sometimes called the "France of Asia,") a personage of singular intelligence, had also manifested a lively interest in the proposed monetary reform, but had been obliged to leave Paris on the eve of the first meeting of the conference. It is worthy of notice that the standard of the gold coin of Persia is .900 fine, being the same as that of the United States, while that of Turkey is still higher, being .915 fine. The principal gold piece of Persia is worth 22.27 francs; that of Turkey 22.48 francs.

2. There is good reason to believe that the disparity in the representation of the two continents was not occasioned by any want of consideration for the nations of Central and South America, but solely by want of time to reach them with formal invitations. The consequence was that the United States, being the only transatlantic country represented, its delegate is erroneously mentioned in the official report as the "sole representative of the transatlantic countries." He begs to state that he did not profess or seek in any way to represent any nation but the United States. The conference is repeatedly mentioned in the official report as embracing "all the sovereign states of Europe and the government at Washington;" but if that implies that the United States assumed any authority to speak for any other of the nations of either of the two Americas, it was not warranted by any act of the undersigned.

Wholly disclaiming any wish to exceed the limits of his proper authority, he would nevertheless venture respectfully to suggest for the discreet consideration of the government at Washington, whether it would not be desirable for the United States, either singly or in co-operation with France, to invite the early

attention of the independent American nations of Spanish or Portuguese origin, now nine or ten in number, to the proposed plan of monetary unification, in the hope that the whole of the western hemisphere may be brought into line in this onward march of modern civilization.

The long array of states in Central and South America, which for brevity may be classed among the "Latin" nations, now embraces in the aggregate a population of more than thirty millions of inhabitants, enjoying an oceanic commerce with the United States, Great Britain, and France, (the three great coining nations,) exceeding yearly two hundred millions of dollars, and, above all, possessing the larger portion of the grand trunk of the broad metalliferous mountain range stretching from Cape Horn to the Arctic ocean. Our own gold and silver bearing, snow-clad Sierra Nevada and Rocky mountains are only the offspring and off-shoots of the Sierra Madre, itself a prolongation of the Cordilleras, first yielding up their metallic treasures to the Spanish nations planted by Cortez and Pizarro. Speaking the languages of Spain and Portugal, these "Latin" races of the two Americas approach, to say the least, in general culture and intelligence, some of the Teutonic and Slavonic races represented in the conference.

In view of the continental importance of securing the early and cordial co-operation of these neighboring nations, the government of the United States will be gratified to learn that the extensive and rapidly improving empire of Brazil, so favorably known by its well-directed patronage of industry and science, although not directly represented in the conference, nevertheless enjoyed the opportunity of fully participating in the preliminary examinations of the international committee on weights and measures and coins, composed largely of members selected from the commissioners from the numerous nations represented at the Universal Exposition. Of that committee Señor de Porto Allegri, the regularly commissioned representative from Brazil, was not only a member, but actually the president of the sub-commission on uniform coinage. In that capacity he carefully presided over its deliberations and united in its general resolutions, copies of which have been heretofore transmitted by the undersigned to the Department of State, and which will be found to be fully in harmony with the plan or basis proposed by the conference.

3. The clear and comprehensive vision of the far-seeing advocates in Europe of monetary unification has fully discerned the grandeur of uniting the two hemispheres in one common civilization. M. Esquiron de Parieu, vice-president of the conseil d'état of France, who presided with eminent wisdom and dignity over the conference at several of its most important meetings, declares, in one of his learned and luminous monetary essays, now lighting the path of the Older World, that "a monetary union of western Europe and the transatlantic nations would possess an incontestable importance. Above all," he adds, "it would produce a grand moral effect." As if foreseeing with the eye of prophecy a continental, if not a world-wide, "solidarity" for the "dollar," founded historically on the past, he adds, "the Americans can never regard their dollar as a merely national coin, after having borrowed it from their neighboring Spanish colonists."

As a matter of historic truth, Spain itself had borrowed the "dollar" from Austria, during their union under the common empire of Charles the Fifth. The "Joachim's *thaler*," first coined in the silver mines of the Bohemian valley of Saint Joachim, (or James,) is the great ancestor, in fact, of the American dollar. In purity of origin and length of lineage it must surely suffice to satisfy the most aristocratic tastes of modern Europe.

Nor is there any such diversity in the coinages of the Central and South American nations, or difference from those of Europe or the United States, as to render the task of unification seriously difficult on their part. The gold doubloon or "*doublon*," (sometimes denominated in the monetary tables the "*quad-*



*ruple pistole*,") of New Granada, of Bolivia, and of Chili, are each .870 parts fine; that of Mexico, .870.5; that of Peru, .868. The French "Annuaire" reports that of Ecuador at .875. Their money values, in the existing dollars of the United States, are reported by the director of the mint of the United States as being, for New Granada, \$15.61; for Chili and Bolivia, \$15.59; for Peru, \$15.58; for Mexico, \$15.52.

The full and perfect measure of Hispano-American unification would be attained by increasing the weight of all these doubloons to one hundred francs, which would render them at once equivalent to the double-eagle (or twenty dollars) of the United States, or to four British sovereigns, (when reduced as now proposed,) and current, without recoinage, brokerage, or other impediment, throughout the world. This enlarged doubloon divided in halves and quarters would supply for the people of Spanish America one convenient coin, equivalent to fifty francs, or an eagle of the United States, or two British sovereigns; and another coin, equivalent to twenty-five francs, or a United States half-eagle, or one British sovereign. Mexico has already a gold coin of 20 *pesos*, finely executed; and Peru has a gold piece of twenty *soles*; each of them being nearly equivalent to the double-eagle.

The 20 "*mil-réis*" of Brazil, now worth \$10.85, would probably be conformed to the plan proposed for Portugal, the parent country, by the Count d'Avila, her experienced and able delegate in the conference, by the issue of a gold coin equivalent to twenty-five francs, with such subdivisions and multiples as convenience might require.

4. The importance of including the whole of the western hemisphere in the work of unification is still more evident when we consider its intermediate position on the globe, as a connecting link or stepping-stone between western Europe and eastern Asia, and the dominant fact that the two Americas already furnish the larger portion of the gold and silver of the world. The comparatively moderate quantities found on the eastern continent, hardly suffice for the necessary consumption in the arts in the populous parts of Europe. The mines of Russia yield annually but little more than fifteen millions of rubles, (\$12,000,000,) of which more than two-thirds are painfully extracted from eastern Siberia, north of the sixtieth parallel of latitude, in ground frozen eight months of the year, and far remote from any adequate supply of food. There is no probability of any large or disturbing influx of gold into western Europe from that distant quarter of the globe.

The course of the monetary currents through middle and eastern Asia is instructively indicated by recent statistical returns from Russia, showing that of the gold and silver coin sent in 1865 from Russia overland into China, through the international *entrepôt* of Kiachta, 3,876,184 rubles were in silver, and only 327,979 rubles in gold.

Of the large gold product of Australia, exceeding in some years sixty millions of dollars, portions are sent to Calcutta, Canton, and other oriental ports, and the residue principally to London. The sovereigns of Australia, bearing the head of Queen Victoria, finely struck, have recently been made a legal tender throughout the British empire.

A portion of the gold of California and of Nevada has now begun to find its way directly to China, in the Pacific steamers, by a line shorter by at least eight thousand miles than the circuitous route hitherto pursued by the way of Panama, the Atlantic ocean, the Mediterranean, the Red sea, and the great Indian ocean. So marvellous indeed are the facility and the economy already afforded by this new line, in connection with the land and ocean telegraphs, that the London banker, with one hand, and within thirty-six hours, may order his correspondent at San Francisco to ship gold to Canton directly across the Pacific, requiring from twenty to twenty-five days, and with the other may telegraph to his correspondent in Ceylon to send to China by the mail steamer from that island, in



ten or twelve days, the necessary advices of the shipment. The "inexorable law of cheapness" will soon render permanent this strange geographical inversion, by which the money of the Pacific slope of the western world is sent westward to find the markets of the east.

5. The proposed unification of gold will necessarily involve the expense of recoinage only by the nations not already measuring their money in francs. No recoinage will be needed in France, Belgium, Switzerland, or Italy, to which have been recently added the Pontifical States and Greece, the whole embracing a population exceeding seventy-two millions. Every other nation has a different coinage, no two of them being alike. It could not be reasonably proposed that these united nations, with seventy-two millions of people, should call in and recoin all their gold, to conform its weight and value to the coinage of any other separate nation, with a population much inferior in number, and especially with a much smaller amount of actual coinage.

On this point it became necessary to examine the statistics, so far as the United States, Great Britain, and France, the three great coining nations, were concerned. Gathered exclusively from official documents, they will be found condensed in the "*Note*" or written argument in favor of the twenty-five franc coin, submitted by the undersigned in behalf of the United States, and printed as an appendix to the sixth "*séance*," at page 91.

For more convenient reference, the figures are now repeated, as follows:

I. The gold coinage of the United States in the fifty-seven years from 1792 to 1849, next preceding the outburst of gold in California in 1849, was .....		\$85,588,038 00
In the next two years, 1849 and 1850.....		94,596,230 00
In the next fifteen years, 1851 to 1866.....		665,352,323 00
Total.....		845,536,591 00
II. The gold coinage of Great Britain in the thirty-five years from its reform, in 1816, to 1851, was £96,021,151, or		\$480,105,755 00
In the fifteen years from 1851 to 1866, £91,047,139, or...		455,235,655 00
Total.....		935,341,450 00
III. The gold coinage of France in fifty-eight years, from 1793 to 1851, was, in francs, 1,622,462,580, or.....		\$324,492,516 00
In the fifteen years, under the empire of Napoleon III, from 1851 to 1866, in francs, 4,938,641,490, or.....		987,728,298 00
Total.....		1,312,220,814 00

## SUMMARY.

Total coinage by the three nations before 1851 :		
By the United States.....		\$180,184,268 00
By Great Britain.....		480,105,755 00
By France.....		324,492,516 00
Amount.....		984,782,639 00
From 1851 to 1866:		
By the United States.....		\$665,352,323 00
By Great Britain.....		455,225,695 00
By France.....		987,728,298 00
Amount.....		2,108,356,316 00

The preceding summary does not include the gold coinage of Australia, full statistics of which the undersigned hopes to be able soon to furnish. The value of the gold produced in the year 1865 in Australia was \$43,686,665; in New Zealand, \$11,133,370. He also proposes to add to this statement reliable statistics of the gold coinages of the other principal coining nations of Europe, and especially of Spain, Prussia, Austria, and Russia; but for the present purpose the preceding comparison of the three nations may suffice. It points clearly to the following results:

The amount coined by the United States having been \$845,536,591, if two-thirds shall be deducted for the portion recoinced in Europe or used in the arts, the amount remaining which would require recoinage would not exceed, in round numbers, \$300,000,000. It is true that a portion of the coin of the United States exported to Europe is sent without recoinage to Germany and other continental nations, for the use of their people emigrating to the United States. But if we allow \$200 *per capita* (which, including women and children, would be a large estimate) for 150,000 emigrants, it would amount only to thirty millions of dollars. In view, moreover, of our large importations of foreign merchandise, with our temporary disuse of gold for domestic purposes, even the estimate of \$300,000,000 may be too large. The recoinage, however, of the whole amount would cost, at one-fifth of one per cent., (the rate ascertained by experience,) only \$600,000.

The amount of gold now in actual circulation in France, Belgium, and Italy, is estimated by M. de Parieu, and other distinguished economists of Europe, at 7,000,000,000 of francs, or \$1,400,000,000. The amount in circulation in the residue of continental Europe would probably carry the total to \$1,800,000,000. To suppose that the seventeen nations, from the Atlantic to the Volga, would or could unite in recoinage such an amount, and in abandoning every vestige of the monetary portion of the metric system, merely to adopt the existing coinage of the United States, with only \$300,000,000 outstanding, would be preposterous indeed.

The proportion of the total amount of British gold coinage (\$935,331,450 in fifty years) now in circulation, is variously estimated from £80,000,000 (\$400,000,000) to £100,000,000, (\$500,000,000,) mainly in sovereigns, many of which are now so much worn as to be reduced in actual value to twenty-five francs. A considerable amount of British gold must have been imported into France, to enable her to coin the \$987,728,298 in the fifteen years from 1851 to 1866. If \$500,000,000 yet remains outstanding in Great Britain, the cost of its recoinage at one-fifth of one per cent., to effect the proposed unification, would be covered by a million of dollars.

It will be borne in mind that this expense of recoinage by the several nations is to be incurred but once for all, while the incessant remeltings and recoinages under the present system by the mints of different nations are a constant and needless diminution of the monetary wealth of the world. The burden principally falls on the nations, like the United States, which export gold needing to be recoinced, the value of which abroad is reduced precisely by the cost of its recoinage.

If the total expense of the necessary recoinage throughout the world to accomplish the proposed unification were even to reach two millions of dollars, it would be speedily reimbursed in the saving of further recoinages, brokerages and exchange. Without attempting at the present time accurately to estimate these savings in detail, (more properly the duty of an experienced commercial committee,) we may safely assume that they would amount yearly to several millions of dollars.

It is stated by an eminent and experienced banker in Europe, that there are now scattered through its different nations and along their frontiers at least five thousand money changers, (including their employés,) who gain their living by

changing the gold of the various countries of the world. If there are but two thousand, earning yearly an average of one thousand dollars each, it would amount to two millions of dollars yearly, which the world ought to save and would save by the proposed unification, not to mention the vexatious loss of time in calculating fictitious rates of exchange, and the large additional saving in the future product of gold.

The estimate of \$1,400,000,000 as the gold circulation of France, Italy, and Belgium, will not be regarded as exaggerated when we consider the heavy drain of silver from France during the last fifteen years, in connection with the fact that its silver coinage from 1795 to 1851 had amounted to 4,457,595,345 francs, or \$891,519,069. Of this large amount, at least \$750,000,000 are said to have been exported within the last fifteen years, principally to the East Indies, leaving the amount of silver now in circulation, in France, not exceeding \$150,000,000.

The coinage of silver at the royal mint of Great Britain in the ten years from 1857 to 1866, both inclusive, was only £3,677,182. or \$18,385,910. The total coinage of silver in France during the reign of the present Emperor, in the fifteen years from 1851 to 1866, was only 215,561,101 francs, or \$43,112,180. The silver coinage of France, Great Britain, and the United States, from 1851 to 1866, was, in round numbers, only \$117,000,000, against a gold coinage, in the same period, of \$2,108,000,000.

So severe, indeed, had become the destitution of small silver coin in 1865, that the treaty of the 23d of December, of that year, authorizing the issue of silver of denominations less than five francs, reduced its standard about seven per cent., (from .900 fine to .835 fine,) to prevent its further disappearance. At the same time, it limited the amount to be coined in France to 239,000,000 francs, or \$47,800,000.

Fortunately for France and the commercial world, the surplus gold of the United States was at hand during these fifteen years, ready to be recoined. Steadily filling the immense vacuum caused by this great export of silver, it now invigorates every branch of industry in France.

The monetary movement in these fifteen years on the waters of the globe signally illustrates the power of the oceans not to divide but to unite the continents in a common "solidarity." Subdued by steam to the use of man, they are now incessantly ministering to the wide-spread monetary necessities of the human race. It needs but a glimpse of their statistics to map out the great oceanic monetary currents. Within that brief period, only the dawn of the opening auriferous era, we discern a mass of gold, in the aggregate exceeding \$500,000,000, moving across the Atlantic from the United States; another and still larger volume of \$833,000,000 pouring out from Australia upon the surrounding oriental waters, and at least one-half finding its way to London over the Indian ocean, the Mediterranean, and the Atlantic; another golden mass of \$620,000,000 crossing the British channel into France, while the great countercurrent of \$565,000,000 of silver, largely derived from France, is seen flowing out of England and up the Mediterranean on its way to the ever-absorbing East.

6. While we see the gold of the United States largely diminished by export to other nations, it should be considered, that its present product may rapidly and largely increase under the stimulating influence of the Pacific railway and its branches, (the main line being now in vigorous progress,) penetrating our metalliferous interior and greatly facilitating and encouraging our mining industry by the cheap and expeditious carriage, not only of machinery, but of food in large quantities, both from the Pacific slope and the fertile valley of the Mississippi. With these superadded facilities, our rate of product of gold for the next fifteen years, to say the least, can hardly diminish. At only \$60,000,000 yearly, (the average rate for the last fifteen years,) our product in the next

fifteen years will add to the gold of the world \$900,000,000. It certainly is not impossible, nor very improbable, that this amount may be considerably exceeded. It was in view of the large and inevitable addition to our gold product, that the undersigned deemed it necessary to insist in the conference, in behalf of the United States, that the work of monetary unification, with its consequent recoinage, must be accomplished "now or never."

The interesting theme of the future development of the trade and power of the two Americas on the Pacific, an ocean as yet almost unoccupied, would open a field of view quite too large for exploration on the present occasion. Confining our examination to their mining industry, it is enough to say, that by the natural increase of their population, incessantly swelled by immigration from overcrowded Europe, at least 130,000,000 of inhabitants, under governments more or less united or confederated, will be found, at the end of the next fifty years, in possession of the whole line of the gold and silver-bearing Cordilleras and their branches from Behring's straits to the confines of Patagonia. Their incalculable masses of treasure, now comparatively dormant, but then brought actively out to light, will be counted indifferently by dollars and by francs. We need but to look calmly and clearly ahead to perceive and to feel, that it has already become, not only the privilege, but the solemn duty of the United States and of all the nations of the western hemisphere, custodians, under the irresistible logic of events, of so large a portion of the money of the world, to secure the uniformity of its coinage, for no narrow "inch of time," but for the unnumbered ages yet to come.

Above all, let us never forget that the two Americas are Christian members of the great family of nations, and that the unification of money may be close akin to other and higher objects of Christian concord. We cannot wisely or rightfully remain in continental isolation. Integral portions of the mighty organism of modern civilization, let us ever fraternally and promptly take our part in the world-wide works of peace.

7. The present heterogeneous condition of the coinages of Europe was originally and primarily caused by the downfall of the Roman empire. The widespread rule of Augustus and his successors embraced a population of various races, estimated at its zenith at one hundred and twenty millions. His vigorous arm suppressed the private coinages of the leading Roman families under the republic. The coin of his government bore "the image and superscription of Cæsar" throughout the wide extent of the empire. Authoritative alike on the Jordan and the Thames, the far-reaching imperial edict regulated the money of Judea, and restrained the rude coinage of the barbarous tribes of Britain.

It is true that the imperial money, subject, like all human things, to the fundamental law of demand and supply, largely fluctuated in value during the first four centuries, but its coinage remained directly or indirectly subject to the central authority until the final wreck and disintegration of the empire.

By that momentous event, western Europe was strewn with fragments from the Mediterranean to the Baltic, and the wall of Britain. The monetary fabric, once so firmly united, shared the fate of the empire. Petty chieftains, seizing the political *débris*, built up petty states, lay and ecclesiastic, by hundreds on hundreds, each of them claiming, and most of them exercising, the sovereign power of coining money. Pre-eminently was this the case in that portion of Europe now called "Germany," which bears even yet on its motley political surface, and still more strikingly on its diversified coinage, the marks of the great disintegration. Even the most powerful of the German emperors seemed unaware of the necessity of centralizing and regulating the coinage of money. In 910 we find Otho the Second, of the great and then dominant Saxon line, granting licenses to the Archbishop of Strasburg and the bishops in its vicinity, to exercise this high function of sovereignty.

Nor was this mingling of God and mammon confined to Germany. Before the

extinction of the Heptarchy, similar powers had been vested in the Archbishops of Canterbury and York, while France was annoyed for centuries with the varying coinages, not only of petty feudal sovereigns, but of abbots and other ecclesiastics of high and low degree, perhaps quite as fit for the trust as the ignorant princes at their side. The cabinets of coins in Europe are filled with the heterogeneous issues of mediæval France and modern Germany.

There may now be seen at the mint of the United States, in Philadelphia, specimens of the coinages, not only of the royal houses of Germany, but of the secondary dukedoms and minor principalities of Brunswick, Nassau, Hesse Cassel, Mecklenburg, Anhalt, Bernburg, Oldenburg, Reuss, Lippe, Saxe Weimar, Saxe Gotha, Saxe Coburg, Saxe Meiningen, Schwartzburg, Hohenlohe, Hohenzollern, and Waldeck; some of them ruling populations of less than one hundred thousand souls.

8. For this fragmentary state of things there could be but one remedy. The disintegrated political and monetary world must be reintegrated; and this has been the tedious task of the last ten or twelve centuries. During this long interval of reconstruction, the scattered members of the once united monetary organism have been slowly coming together. Hundreds of petty sovereignties have been already extinguished or consolidated, giving place to large and efficient nations.

The fusion of the seven little kingdoms of the heptarchy in the undivided realm of England; the conjunction, in Spain, of the crowns of Castile and Arragon; the consolidation of the provinces of France, and consequent extinction of feudal rule and feudal coinage; the union of the three kingdoms in the British islands;—all becoming centres of monetary reform, in which discordant coinages have been melted into unity;—the recent conjunction of the fragmentary portions of the Italian peninsula, incoherent and jarring for centuries; the unifying operations now in vigorous progress in northern Germany; and above all, the advent and progress of the great empire of Russia, emerging from Asia and steadily moving into eastern Europe, have all converged to one grand monetary result—the diminution in number of the coining nations, enabling them all at last to meet face to face in general and friendly conference, as they have just done for the first time in the history of man.

It is true that a cluster of smaller principalities with mimic sovereignties may yet remain in Germany, portions of a more numerous group, whose multifarious and multitudinous silver coinages had been so long the annoyance and pest of every traveller through central Europe; but recent events give reason for hope that a confederation, if not the political unity, of their intelligent populations, which may utter a common voice for a common money, will not be much longer postponed.

9. From this hasty sketch of the coinages of Europe, we may point with just satisfaction to the historical contrast furnished by the United States of America.

The thirteen colonies which first occupied that portion of the North American continent extending southwardly from the great chain of lakes nearly to the Gulf of Mexico, brought with them, or soon adopted, the "pound" as their unit of money. The twenty silver shillings which they coined, being reduced in weight, were not equal in value to the pound sterling of the parent country. The pound of some of the colonies was not worth in silver more than three dollars and thirty-three cents, measured in the present money of the United States. In others it was worth only two dollars and fifty cents. The natural attachment of the colonists to the traditions of the parent country, nevertheless induced them to retain the inconvenient and absurd subdivisions of shillings pence, and farthings, with their three differing divisors.

Several of the colonies coined silver money of small denominations, with subdivisions in copper, until the restoration of Charles the Second to the throne of England. A royal order issued by his authority, about the year 1660, strictly



prohibited any further coinage by the colonies, as the usurpation of a sovereign power. Their coinages consequently ceased or greatly diminished until the outbreak of the American Revolution, in 1775, after which various coins were issued by the several "States" claiming to be sovereign, until the final adoption of the dollar as the coin of the United States. To comprehend clearly that important event, we must briefly revert to the history of the "pound."

The money pound of England is of French origin. Charlemagne, crowned "Charles Augustus, Emperor of the West," in the year 800, sought, like his imperial predecessor, the first Augustus, to unify the money of his empire. With that view he ordained that the French livre, or pound weight of silver, should constitute the monetary livre, or pound of money. This livre, carried across the channel into England by William of Normandy, was imposed by him as Conqueror on the English people. The "Tower pound," actually containing a pound weight of silver, bears date in 1066, the year of the Conquest. The word, however, failed long ago to possess any truthful significance, for the money pound has been steadily dwindling in weight for the last eight centuries, until the twenty shillings into which it is now divided actually contain less than one-quarter of a pound of pure silver.

On the recognition by England, in 1783, of the political independence of the United States, their then existing political organization, "The Congress of the Confederation," deemed it proper, also, to throw off the monetary yoke of pounds, shillings, pence, and farthings. On the 6th of July, 1785, this continental Congress unanimously passed the memorable monetary ordinance reported by the "grand committee of thirteen," of which Rufus King, one of the wisest and most far-seeing of the statesmen of America, was a member. Not only did it omit in any way to recognize the pound, but it distinctly brought in and established the dollar, as the permanent monetary unit of the United States. Its precise weight was fixed by a subsequent ordinance, passed on the 8th of August, 1786, which further provided for the issue of a gold coin of ten dollars, to bear the impress of the eagle, which imperial emblem had been selected in 1782, in view of the national sovereignty then clearly discerned in the future. What was far more important, the ordinance expressly provided that the dollar should be decimally divided.

This cardinal monetary reform preceded, by at least six years, the establishment of the "metric system" of France, with the consequent decimalization of its coin in 1792, under which the ancient "livre" of Charlemagne, dwarfed and shrunk in its long life through the vicissitudes of ten centuries, disappeared from the world.

The government of the United States has lost no opportunity of commending the metric system to the admiration of its people and of the civilized world. By a recent act of Congress, passed on the excellent report of Mr. Kasson, in the House of Representatives, supported with learning and ability by Mr. Sumner, in the Senate, its use has been actually legalized throughout the American Union. But the dominant historic fact will forever remain, that the previous step, among the first if not the earliest of the authoritative measures for decimalizing the money of the world, was taken by our young republic, just emerging from its cradle.

Nor did the services and the example of the United States in the cause of monetary unification stop with the ordinance of 1786. A further and far more comprehensive measure was adopted in 1789, in substituting, in place of a loose political confederation, a nation, with a government throwing the mantle of a common sovereignty over the States and the peoples then united, with the transcendent and exclusive power to establish one uniform coinage for the whole. The great monetary clause in the national Constitution—the most important act of political conjunction which history records—with a sublime forecast of the geographical expansion of the nation then brought into being, is condensed and crys-



tallized in the few brief words, "NO STATE SHALL COIN MONEY," firmly and forever establishing the monetary unity and the monetary sovereignty of the continental republic, from ocean to ocean.

10. The first Napoleon, looking down on the world from the rock of St. Helena, declared that what Europe most needed was "a common law, a common measure, and a common money." This solemn utterance was a legacy not alone to Europe, but to the whole family of nations. It was in 1821, the very year of his disappearance from the world, that the American Secretary of State, John Quincy Adams, submitted to the Congress of the United States his celebrated report, pointing out the incalculable advantages of a common measure and a common money, "to overspread the globe," in his own comprehensive language, "from the equator to the poles." With clear political sagacity, he saw and said that the object could only be accomplished "by a general convention of nations, to which the world shall be parties," and "in which the energies of opinion must precede those of legislation." It certainly was the first official proposition for a general monetary convention, known in civil history.

More than forty years elapsed before that memorable proposition was carried in any way into practical effect. It is true, that some of the states of Germany had met in a monetary convention in January, 1857, which fixed the values (for purposes of their local Zollverein) of the gold crown, the silver thaler, and the silver florin; but no general assembly of nations, by delegates duly accredited, was ever held, in which the question of general monetary unification was openly discussed, until the International Statistical Congress at Berlin, in September, 1863. To that body, composed largely of representatives from governments, an elaborate report was presented by a committee of delegates from fourteen nations, mainly prepared by Mr. Samuel Brown and Professor Leone Levi, of London, both favorably known by their valuable labors in the "International Decimal Association." It recommended the decimalization of the pound sterling, but proposed to retain the pound itself as the monetary unit. It further proposed, that "in respect to silver coins, *the dollar reduced in value to five francs*, the florin made equal in value to two and one-half francs, and the franc itself, should also be retained as units; and that all of them should be decimally divided."

It is gratifying to add, that a large and influential party in England, embracing many of its most eminent and intelligent merchants and bankers, (and especially the late Sir William Brown, of Liverpool,) have strongly advocated, for several years, the decimalization of the pound sterling.

The above-mentioned report coming up for discussion in the congress at Berlin, the undersigned, as the delegate from the United States, objected to the adoption of the four units, and expressly on the ground, among others, that it would tend to preserve the double standard of gold and silver, and thus prolong the vain attempt to fix by legislative enactment the values of two different metals, in their nature necessarily mutable, and governed only by the fundamental law of demand and supply.

In the course of the discussion, a suggestion was made by Dr. Farr, registrar general of the United Kingdom, and one of the most distinguished of the British delegates, that the gold dollar of the United States should be made equal to one-fifth of the British sovereign; to which it was answered, in behalf of the United States, that both the British sovereign and the United States half-eagle of five dollars should be reduced to the value of twenty-five francs, and thereby unify at once the gold coinage of the three nations. The difference of opinion on this point between the delegates of Great Britain and those of the United States and of other nations, led the Congress to adjourn without deciding the question.

It would not be just to leave this portion of the subject without acknowledging the valuable aid rendered by delegates from other countries in sustaining the

proposition for unifying at once the gold of the three nations, and pre-eminently by the Count d'Avila, the well-known financier and delegate from Portugal, (now minister at Madrid,) who ably supported, at the Berlin congress of 1863, the plan of triple unification, and with still greater efficiency in the recent conference, the proposition of the United States for the issue by France of the new gold coin of twenty-five francs.

As a part of the history of monetary unification it is proper also to add, that the present Chief Justice of the United States, while Secretary of the Treasury, practically proposed, in his annual report to Congress in 1862, to unify the coinage of the English races by reducing the value of the half eagle of the United States to that of the British sovereign, which would have required a reduction in the half eagle of  $13\frac{1}{2}$  cents. His forcible exposition of the advantages of such a step is still more applicable to the wider measure of unification now proposed by the international monetary conference, requiring a further reduction of only four cents.

It must, however, be evident that such a conjunction of the coinages of the United Kingdom and of the United States, embracing a population in Europe and America not exceeding seventy millions, would have brought the conjoined monetary system of the two nations into perpetual antagonism with the system or systems of the European continent, now embracing a population of two hundred and fifty millions—not to mention the possibility, not very far remote, of ultimately bringing the populous nations of eastern Asia, with their four or five hundred millions, into one common world-embracing system, to remain united while modern civilization shall endure.

11. On the 23d of December, 1865, the governments of France, Belgium, Switzerland, and Italy, made the quadripartite monetary treaty, the text of which is given in full, as an appendix to the second *séance* of the conference, at page 27. A translation is herewith transmitted.

With profound respect for the distinguished negotiators of the treaty, several of whom were also members of the conference, we may, nevertheless, assert that its principal value is geographical, in fusing into a single mass, for monetary purposes, the large and important portion of Europe embraced within the boundaries of the four nations, since enlarged by the adhesion of the Pontifical States and of Greece. By this brilliant and masterly consolidation, the gold of Europe is already unified throughout one broad, unbroken belt from the Atlantic ocean to the eastern limits of the Grecian archipelago, constituting an extensive and attractive nucleus, around which the coin of the remaining nations of Europe may readily cluster. Opening wide an unobstructed path through Europe for American coin, it now needs only a brief law of Congress, fixing the weight of the gold dollar at 1.612.90 milligrams—to establish a permanent line of monetary unity spanning the Christian world from San Francisco to the confines of Constantinople.

The treaty is, moreover, of primary importance in prescribing and defining, with scientific precision, the weight, diameter, quality, and "tolerance" of the coin thus unified. On the other hand, it contains provisions which are wholly inadmissible in a general basis of monetary unification for the nations of the world. They are the following :

1. In including silver in the coin to be unified, thereby rendering it necessary to fix a permanent ratio between the values of gold and of silver.
2. In limiting the amount of silver coin, of denominations less than five francs, to six francs, *per capita*, for the population of each nation.
3. In prohibiting the issue of any gold coin of an intermediate denomination between ten francs and twenty francs, or between twenty francs and fifty francs, a prohibition which would prevent the issue not only for the twenty-five franc coin required by the interests of the United States and other nations, but of a fifteen-franc gold coin, which may soon become necessary in unifying the coinages of

Germany and, perhaps, of Holland. It is enough to add that the conference, in view of these provisions, did not adopt the treaty as the fundamental basis of their plan of unification.

12. The double standard was legally established in France by the well-known law of *7th Germinal*, an XI, (March 28, 1803,) which fixed, or, more properly speaking, sought to fix the ratio of silver to gold at  $15\frac{1}{2}$  grams of silver to 1 gram of gold. The power of a legislative body thus to fix a ratio of values has been for the last seventy years the cherished belief of many economists of France. It was probably in deference to their opinions that the recent act of the *Corps Legislatif*, ratifying the treaty of December, 1865, studiously declared that the law of *7th Germinal* "was not repealed," and this in face of the treaty itself, which authorized the issue in France alone of 239,000,000 of silver francs, at a standard reduced from .900 fine to .835, about seven per cent., and that, too, for the very reason that silver had actually become more valuable by seven per cent. than the rate of  $15\frac{1}{2}$  to 1 fixed by the law of *7th Germinal*.

The practical reduction of the ratio directed by the treaty was, in fact, a distinct and most instructive admission, in the most solemn form known to nations, that any act of mere legislation, seeking to fix a "double" standard, is, alike in its nature and in its very terms, fallacious, illogical and impossible. No formal legislative act was needed for repealing the law of *7th Germinal*, for it had been already effectually repealed in fact, by the natural and irresistible increase in the value of silver in obedience to the superior and overruling law of demand and supply.

The vital element in the double standard is the legal right which it gives to a debtor to pay his debt, at his option, in either of the two metals; in other words, rendering both "a legal tender." In view of this, the treaty of 1865, permitting this large silver coinage of reduced standard, declared it not to be a legal tender between individuals for sums exceeding fifty francs, and so far repudiated the theory of a double standard.

The Congress of the United States have also virtually abandoned the ratio which it had sought to fix by legislation. The act of 1853 directs all subdivisions of the dollar thereafter to be coined to be reduced (not in standard, as in the four nations, but) in weight, about seven per cent.; and also declares such subdivisions not to be a legal tender for any sum exceeding five dollars.

The total coinage of silver dollars by the United States in the last seventy years falls short of five millions of dollars, nearly all of which have disappeared from circulation. But the total coinage of the subdivisions has exceeded \$131,000,000, of which nearly the whole of the portion coined before 1853 has also disappeared. In view of these facts, submitted by the undersigned to the conference, (3d "*séance*," page 37,) he felt justified in claiming and insisting that the double standard now existed in the United States only in form, and not in fact.

The establishment of the single standard exclusively of gold, is in truth the cardinal, if not the all-important feature of the plan proposed by the conference, relieving the whole subject, by a single stroke of the pen, from the perplexity, and indeed the impossibility, of permanently unifying the multiplicity of silver coins scattered through the various nations of Europe. It is a matter of world-wide congratulation, that on this vital point the delegates from the nineteen nations represented in the conference were unanimous—not excepting France itself, so strongly wedded by its national traditions to a double standard.

13. It will be seen by the report of the discussions (6th "*séance*," pages 79 to 82,) that the subject of the "common denominator," or unit of gold, elicited a considerable difference of opinion. A denominator or unit equivalent to and equiponderant with the existing gold five-franc coin of France was actively supported by the United States, and by Austria, Russia, Switzerland, Portugal.

and other nations. The delegates from Great Britain and from Sweden urged, in preference, a denominator or unit of ten francs.

The question was finally decided by a formal vote by ayes and noes, on a roll-call of the nations, which resulted in a large majority in favor of the denominator or unit of five francs—thirteen (13) nations voting in its favor, and two, (2,) Great Britain and Sweden, in favor of the ten francs. The delegates from Prussia, Baden, Bavaria, and Wurtemberg, abstained from voting, mainly in view of existing stipulations in local monetary conventions, which temporarily embarrassed their action.

On all these questions, the interests of monetary unification were materially advanced by the publication at Paris of the concise but admirable letter from the Hon. John Sherman, senator in Congress from the State of Ohio, a copy of which has been already communicated to the Department of State, but which for more convenient reference is now transmitted herewith in duplicate, with its French translation.

His opinions are unmistakably expressed in the following extracts :

“As the gold 5-franc piece is now in use by over sixty millions of people of several different nationalities, and is of convenient form and size, it may well be adopted by other nations as the common standard of value, leaving to each nation to regulate the divisions of this unit in silver coin or tokens.

“If this is done, France will surely abandon the impossible effort of making two standards of value. Gold coins will answer all the purposes of European commerce. A common gold standard will regulate silver coinage.

“In England, many persons of influence, and different Chambers, are earnestly in favor of the proposed change in the coinage. The change is so slight with them, that an enlightened self-interest will soon induce them to make it : especially if we make the greater change in our coinage.

“We can easily adjust the reduction with the public creditors in the payment or conversion of their securities, while private creditors might be authorized to recover upon the old standard.”

In connection with the propositions so clearly stated, it should be borne in mind that the change proposed in the weight of the dollar might be made, if necessary, so far prospective as to permit most of the private contracts now existing to mature. In point of fact, no practical inconvenience was experienced from the act of Congress of 1834, which reduced the weight of the gold dollar more than five per cent.

14. It is due to the British delegates, Mr. Thomas Graham, master of the royal mint, and Mr. Rivers Wilson, of the British treasury, to acknowledge their personal intelligence and liberality in the conference. They voted in favor of the single standard, and other important propositions, but were compelled, under the strictly limited instructions from their government, formally to state to the conference, (5th “*séance*,” page 64,) that, “until it should be incontestably demonstrated that the adoption of a new system offered superior advantages justifying the abandonment of that which was approved by experience, and rooted in the habits of the people, the British government could not take the initiative in assimilating its money with that of the nations of the continent.”

The plan proposed by the conference has been formally transmitted to the British government, and will probably be referred, for careful consideration and report, either to a royal commission or a parliamentary committee. This will afford sufficient time, on the one hand, for the advocates of the existing system of pounds, shillings, pence, and farthings, and on the other, for the friends of decimalization and the slight reduction assimilating the sovereign to the continental systems of Europe and America, to take the necessary measures to develop and render effective the matured opinion of the British people. We surely may indulge the hope, that the practical and clear-headed Anglo-Saxon



race, now so widely diffused through different quarters of the globe, abandoning narrow prejudices and worn-out traditions, may be found cordially agreeing on a common money for the use of civilized man.

15. The efforts made in behalf of the United States, in the necessary interviews with the imperial authorities, including the Emperor in person, to induce the government of France to issue a gold coin of 25 francs, to "go hand-in-hand throughout the civilized world, in perfect equality with the half-eagle of the United States and the sovereign of Great Britain," have been fully reported to the Department of State in former communications. There was some reason to fear that such a coin might be regarded as approaching too nearly in size the existing "Napolcon," or 20-franc coin. If that were so, it would enhance only the more the sense which must be entertained of the liberal and conciliatory course actually pursued by the imperial government.

At the 5th meeting of the conference, the Prince Napoleon, (Jerome,) at the special instance of the Emperor, and to mark his lively interest in the proposed monetary unification, entered upon the duties of the presidency, which had been discharged with signal ability by M. de Parieu. At the next meeting the question of the coinage of the 25-franc gold piece became the subject of serious discussion, during which Mr. Graham, of the British delegation, after expressing his opinion that a coin either of 25 francs or of 15 francs would inconveniently approach in size the existing coin of 20 francs, inquired whether the government of France "really proposed to issue a coin of 25 francs;" to which it was answered by the prince president, with the courtesy which peculiarly and uniformly characterized his conduct of the presidency, that "if France consulted only her individual convenience, she would see no necessity for issuing the new coin; but for the purpose of facilitating the work of unification, she would make the concession requested by the United States;" adding, moreover, that "the new coin would also promote the convenience both of England and of Austria." The delegate from Spain, the Count Nava de Tajo, thereupon stated that it would also accommodate Spain. The question was then put formally to vote, on which the issue of the 25-franc coin was unanimously recommended, Prussia, Baden, and Wurtemberg abstained from voting, mainly for the local and temporary reasons above referred to.

It is proper to add, that in the repeated interviews on the subject of this important concession by France with Monsieur Rouher, the Chief Minister of State, he uniformly manifested his cordial and respectful regard for the government and the people of the United States, and his earnest desire to harmonize the monetary systems of the two nations.

16. To prevent any misapprehension on either side of the Atlantic, it should be distinctly understood that the conference do not propose, nor was any proposition or suggestion made in that body, or elsewhere, to the knowledge of the undersigned, to abandon the use in any way of the word "dollar," or "sovereign," or "thaler," or "florin," or "ruble," for any other local denomination of money, or in any way to substitute the word "franc" for any or either of them. By the proposed unification, all those terms will be practically rendered synonymous or mutually convertible, but every nation will continue to use the names, with the local emblems, it may prefer.

That such will be the case is now fully evident from the fact that since the adjournment of the conference in July last a preliminary treaty has been signed by accredited representatives from France and Austria, providing for the issue of a gold coin of the weight and value of twenty-five francs for the international use and convenience of those two important powers, and by which the ten florins of Austria are made precisely equal in weight and value to the twenty-five francs of France, the coin of each nation to be stamped with the head of its respective Emperor.

A specimen or medal in gold, showing the weight and diameter of the pro-

proposed coin, with its reverse inscribed "*Or. Essai Monétaire*," encircling "25 Francs, 10 Florins, 1867," has been already struck by order of the government of France, a duplicate of which was recently delivered at Paris to the Emperor of Austria.

A similar specimen or medal in gold has also been struck, inscribed on its reverse "5 Dollars, 25 Francs, 1867," three duplicates of which, with the proper official letters from M. Dumas, "senator of France and president of the commission on coins and medals," have been intrusted to the undersigned for delivery to the President, to the Secretary of State, and to the Secretary of the Treasury of the United States. A fourth specimen, presented to the undersigned, may be used when necessary for the further illustration of the subject.

The diameter of this international coin is 24 millimetres, exceeding a little that of the present half-eagle of the United States, and that of the sovereign of Great Britain, while the medallion of the Emperor, in bold relief, on the face of the coin to be issued in France, distinguishes it at once from the ordinary "Napoleon" of 20 francs, which is only 21 millimetres in diameter. The counterpart, when issued by the United States, will doubtless bear the proper national emblems, and especially the national monetary motto, "IN GOD WE TRUST."

Should the present effort of the nations of the earth to unify their coin be crowned with success, this specimen medal, the first-born offspring of the International Monetary Conference, bearing its conjoint inscription of "dollars and francs," with its "millésime" or date of issue, will possess an enduring historic value, in recording the commencement of the new monetary era with the precious and indissoluble union of the coinage of the eastern and the western continents.

In closing this communication, the undersigned respectfully begs leave to testify his grateful sense of the steady support in the discharge of his official duty which he has received from the Department of State, and of the cordial co-operation, at Paris, of General John A. Dix, the Minister Plenipotentiary of the United States.

SAMUEL B. RUGGLES.

Hon. WILLIAM H. SEWARD,

*Secretary of State, &c., &c., &c.*

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#### APPENDIX No. 1.

*Roll of the delegates in the International Monetary Conference at Paris, June, 1867. Alphabetically arranged by nations.*

For AUSTRIA: His Excellency M. le Baron de Hock, Privy Councillor, Member of the House of Lords.

For the GRAND DUCHY OF BADEN: M. le Baron de Schweizer, Envoy Extraordinary and Minister Plenipotentiary from Baden, at Paris; M. Dietz, Privy Councillor and Commissioner General of Baden at the Universal Exposition.

For BAVARIA: M. Hermann, Privy Councillor; M. de Haindl, Master of the Mint.

For BELGIUM: M. Fortamps, Director of the Bank of Belgium; M. Stas, Member of the Royal Academy and Commissioner of the Mint.

For DENMARK: M. le Count de Moltke Hvitfeldt, Envoy Extraordinary and Minister Plenipotentiary from Denmark, at Paris.

For ESPAGNE, (Spain): M. le Count of Nava de Tajo, of the Ministry of Foreign Affairs of Spain.

For les ETATS-UNIS, (United States of America): Mr. Samuel B. Ruggles, Commissioner to the Universal Exposition.



For FRANCE : His Excellency the Marquis de Moustier, Minister of Foreign Affairs, President of the Conference ; M. de Parieu, Vice-President of the Council of State, Member of the Institute, and Vice-President of the Conference ; M. de Lavenay, President of the Financial Section of the Council of State ; M. Herbet, Minister Plenipotentiary, Director in the Ministry of Foreign Affairs ; M. Dutilleul, Director in the Ministry of Finance.

For GREAT BRITAIN : Mr. Thomas Graham, Master of the Royal Mint ; Mr. Rivers Wilson, of the Treasury Department.

For GREECE : M. Delyannis, Envoy Extraordinary and Minister Plenipotentiary from Greece, at Paris.

For ITALY : The Chevalier Artom, Councillor of the Italian Legation at Paris ; M. Giordono, Inspector of the Royal Corps of Mines and Commissioner to the Universal Exposition.

For les PAYS BAS, (Holland) : M. Vrolik, former Minister of Finance ; M. Mees, President of the Bank of Holland.

For PORTUGAL : M. the Count d'Avila, Peer of the Realm, Envoy Extraordinary and Minister Plenipotentiary from Portugal to Spain, Commissioner General at the Universal Exposition ; M. the Viscount de Villa Major, Peer of the Realm, Member of the International Jury.

For PRUSSIA : M. Meinecke, of the Superior Privy Council of Finance ; M. Herzog, Privy Councillor in the Ministry of Commerce, Commissioner to the Universal Exposition.

For RUSSIA : M. de Jacobi, Privy Councillor, Member of the Imperial Academy of Sciences at St. Petersburg.

For SWEDEN AND NORWAY : M. Wallenberg, Member of the Upper Chamber of the Swedish Diet, Director of the Bank of Stockholm ; M. Broch, Member of the Norwegian Storting, President of the Central Norwegian Commission for the Universal Exposition.

For SWITZERLAND : His Excellency M. Kern, Envoy Extraordinary and Minister Plenipotentiary from Switzerland, at Paris ; M. Escher, Master of the Mint of Switzerland ; M. Feer Herzog, Member of the National Council of Switzerland.

For TURKEY : His Excellency Djemil Pacha, Ambassador Extraordinary and Minister Plenipotentiary from the Sublime Porte, at Paris ; the Colonel Essad Bey, Attaché of the Embassy and Director of the Ottoman Military Academy at Paris ; his Excellency Mihran-Bey-Duz, Member of the Grand Council of Justice, Director of the Mint at Constantinople, and Special Delegate from the Ottoman Empire.

For WURTEMBERG : The Baron de Soden, Privy Councillor of the Legation of Wurtemberg.

M. CLAVERY, of the Ministry of Foreign Affairs at Paris, Principal Secretary.  
M. ROUX, attached to the Vice-Presidency of the Council of State, Adjunct Secretary.

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## APPENDIX No. 2.

*Monetary Convention concluded December 23, 1865, between France, Belgium, Italy, and Switzerland.*

His Majesty the Emperor of the French, his Majesty the King of the Belgians, his Majesty the King of Italy, and the Swiss Confederation, equally animated by the desire to effect a more perfect harmony in their monetary legislation, and to remedy the inconvenience to trade between their respective countries resulting from the diversity of their small silver coins, and to contribute to

the uniformity of weights, measures, and coins by forming a monetary union, have therefore resolved to conclude a convention for that purpose, and have named their commissioners plenipotentiary, as follows :

For FRANCE: M. Marie Louis Pierre Felix Esquirou de Parieu and M. Theophile Jules Pelouze.

For BELGIUM: M. Frederic Fortamps and M. A. Kreglinger.

For ITALY: M. Isaac Artom and M. Valentin Pratolongo.

For SWITZERLAND: M. Kein, Minister Plenipotentiary, &c., and M. Feer Herzog, member of Swiss National Council.

These commissioners, having interchanged their respective credentials, agreed upon the following articles :

ARTICLE 1. Belgium, France, Italy, and Switzerland unite to regulate the weight, title, form, and circulation of their gold and silver coins. No change is made for the present, in legislation, relative to copper coins for the four countries.

ART. 2. The high contracting parties bind themselves not to coin, or permit to be coined, any gold other than in pieces of 100, 50, 20, 10, and 5 francs in weight, standard, tolerance, and diameter, as follows: All these coins shall be of the fineness or standard of .900, with a tolerance of two thousandths above or below the legal standard. The tolerance in weight shall be for the 100 and for the 50 franc pieces, one thousandth above or below; for the 20 and 10 franc pieces, two thousandths; for the 5-franc pieces, three thousandths. The weights and diameters are these :

*Gold coins.*—100 francs, weight 32.258.06 grams, diameter 35 millimetres; 50 francs, weight 16 129.03 grams, diameter 28 millimetres; 20 francs, weight 6.451.61 grams, diameter 21 millimetres; 10 francs, weight 3.225.80 grams, diameter 19 millimetres; 5 francs, weight 1.612.90 grams, diameter 17 millimetres.

The different states will receive all the above coins when not worn to one-half per cent., or the devices effaced.

ART. 3. The contracting governments bind themselves not to coin, or permit to be coined, silver pieces of 5 francs, except in the following weight, standard, tolerance, and diameter: The weight of each 5-franc piece shall be of twenty-five grams; its tolerance in weight, three thousandths; its fineness, .900; its tolerance in standard, two thousandths; and its diameter thirty-seven millimetres.

They will receive the above pieces at par, unless reduced one per cent. by wear, or the device is worn off.

ART. 4. The high contracting parties will coin hereafter pieces of 2 and 1 franc, 50 and 20 centimes, only under the following conditions of weight, standard, tolerance, and diameter. The fineness of these pieces shall be of .835; their tolerance of standard, three thousandths; their tolerance of weight, five thousandths for the first two, .007 for the 50-centime piece, and 0.10 for the 20-centime piece. Their weights and diameters as follows :

*Silver coins.*—2 francs, weight 10 grams, diameter 27 millimetres; 1 franc, weight 5 grams, diameter 23 millimetres; 50 centimes, weight 2.50 grams, diameter 18 millimetres; 20 centimes, weight 1 gram, diameter 16 millimetres.

The above pieces shall be recoined by the respective governments when reduced by wear, or when their devices shall have become effaced.

ART. 5. Pieces of 2 and 1 franc and of 50 and 20 centimes of a different coinage from the above shall be withdrawn from circulation by the 1st of January, 1869. This term is extended for the pieces of 2 and 1 franc, issued in Switzerland, by the law of January, 1860.

ART. 6. The silver coins authorized in article 4 shall be a legal tender between individuals of the states in which they are issued to the sum of fifty francs. The nation issuing them shall receive them in any amount.

ART. 7. The public banks of each of the four countries will receive the coins of article 4, to the sum of 100 francs, in payment to said banks. The govern-

ments of Belgium, France, and Italy will receive the Swiss 2 and 1 franc pieces of 1860, under the same conditions, as equivalent to the coins of article 4, and under the reservation relative to wear.

ART. 8. Each of the contracting governments binds itself to receive from banks or individuals the small coins they have issued, and return the equivalent in current coin, (gold or 5-franc silver pieces,) provided the sum presented be not less than 100 francs. This obligation shall extend two years beyond the expiration of this treaty.

ART. 9. The high contracting parties agree not to issue a greater amount of these 2 and 1 franc, 50 and 20 centime pieces of article 4, than 6 francs for each inhabitant. The amount thus fixed in accordance with the last census and the presumed increase of population is fixed at—

	Francs.
For Belgium.....	32, 000, 000
For France.....	239, 000, 000
For Italy.....	141, 000, 000
For Switzerland.....	17, 000, 000

Exclusive of the above sums the different governments can issue of coins already in circulation in the following proportions: France, in 50 and 20 centime pieces, by the law of the 25th May, 1864, about 16,000,000; Italy, in 2 and 1 franc, 50 and 20 centime pieces, by the law of the 24th August, 1862, about 100,000,000; Switzerland, in 2 and 1 franc pieces, by the law of 31st January, 1860, about 10,500,000.

ART. 10. Hereafter the year of issue shall be stamped on all the gold and silver coins issued by the four governments.

ART. 11. The contracting governments shall annually state the quantity of their issue of gold and silver coins, and the amount collected for melting. They shall likewise give notice of important facts in regard to the reciprocal circulation of their issues.

ART. 12. Any other nation can join the present convention by accepting its obligations and adopting the monetary system of the Union in regard to gold and silver coins.

ART. 13. The execution of the reciprocal engagements contained in the present convention is left to the high contracting powers, who bind themselves to pass laws for the purpose as soon as possible.

ART. 14. The present convention shall remain in force till the 1st of January, 1880. If it be not repealed a year before the expiration of that term, it shall remain in force for an additional period of fifteen years, and so on until repealed.

ART. 15. The present convention shall be ratified, and the ratifications exchanged at Paris, within six months, or less time, if possible.



APPENDIX No. 3.

EXPOSITION UNIVERSELLE DE 1867, A PARIS.

COMITE DES POIDS ET MESURES ET DES MONNAIES.

COMMUNICATION FAITE A LA SÉANCE DU 24 MAI, 1867.

*Letter from Samuel B. Ruggles, vice-president of the United States commission at the Universal Exposition at Paris, 1867, and specially designated as member of committee on weights and measures and coins, to Hon. John Sherman, chairman of the Finance Committee of the Senate of the United States of America.*

PARIS, May 17, 1867.

MY DEAR SIR: You are of course aware that there is a special "International Committee" now in session at Paris, organized by the Imperial Commission of France, to sit simultaneously with the "Universal Exposition," and composed of delegates from most of the nations therein represented. Its object, among others, is to agree, if possible, on a common unit of money for the use of the civilized world.

It is not improper to mention, that the opinions of the committee appear to be running strongly in favor of adopting as the unit the existing French five-franc piece of gold.

May I ask what, in your opinion, is the probability that the Congress of the United States of America would agree at an early period to reduce the weight and value of our American dollar, to correspond with the present weight and value of the gold five-franc piece in France, and how far such a change would commend itself to your own judgment.

I also ask the privilege of submitting

*Lettre de M. Samuel B. Ruggles, vice-président de la commission des Etats-Unis à l'Exposition Universelle de 1867, et spécialement désigné pour faire partie du comité des poids et mesures et des monnaies, à M. John Sherman, président du Comité des Finances au Sénat des Etats-Unis d'Amérique.*

PARIS, 17 Mai, 1867.

CHER MONSIEUR: Vous savez sans doute qu'un "comité" international spécial, siégeant actuellement à Paris, est organisé par la Commission Impériale de France, pour coïncider avec l'Exposition universelle. Ce comité, composé de délégués de la plupart des Etats représentés à l'Exposition, a pour objet, entre autres, d'amener, s'il est possible, un accord sur l'adoption d'une commune unité pour les monnaies à l'usage du monde civilisé.

Il convient d'observer que l'opinion des membres du comité paraît tendre fortement à l'adoption de la pièce d'or française de 5 francs comme unité.

Puis-je vous demander quelle est, selon vous, la probabilité qu'il y aurait devoir le Congrès des Etats-Unis d'Amérique consentir, dans un avenir prochain, à réduire le poids et la valeur de notre dollar américain de manière qu'il corresponde au poids et à la valeur actuels de la pièce d'or française de 5 francs, et à quel point un pareil changement vous paraîtrait, à vous-même, justifié?

Je vous demande aussi la permission

your answer to the consideration of the committee.

With high respect, your obedient servant,

SAMUEL B. RUGGLES.

*Answer from Hon. J. Sherman to Samuel B. Ruggles, esq.*

HOTEL JARDIN DES TUILERIES,  
May 18, 1867.

MY DEAR SIR: Your note of yesterday, inquiring whether Congress would probably, in future coinage, make our gold dollar conform in value to the gold five-franc piece, has been received.

There has been so little discussion in Congress upon the subject, that I cannot base my opinion upon anything said or done there.

The subject has, however, excited the attention of several important commercial bodies in the United States, and the time is now so favorable, that I feel quite sure that Congress will adopt any practical measure that will secure to the commercial world a uniform standard of value and exchange.

The only question will be, how this can be accomplished.

The treaty of December 23, 1865, between France, Italy, Belgium, and Switzerland, and the probable acquiescence in that treaty by Prussia, has laid the foundation for such a standard. If Great Britain will reduce the value of her sovereign two pence, and the United States will reduce the value of her dollar something over three cents, we then have a coinage in the franc, dollar, and sovereign, easily computed, and which will readily pass in all countries; the dollar as five francs, and the sovereign as twenty-five francs.

This will put an end to the loss and intricacies of exchange and discount.

Our gold dollar is certainly as good a unit of value as the franc; and so the English think of their pound sterling.

de soumettre votre réponse aux réflexions du comité.

Je suis, avec un profond respect, votre obéissant serviteur,

SAMUEL B. RUGGLES.

*Réponse de M. J. Sherman à M. Samuel B. Ruggles.*

HÔTEL DU JARDIN DES TUILERIES,  
18 Mai, 1867.

CHER MONSIEUR: J'ai reçu votre lettre d'hier par laquelle vous me demandez s'il est probable que le Congrès consentirait, dans l'avenir, à donner à notre dollar d'or une valeur équivalente à celle de la pièce d'or de 5 francs.

Il y a eu si peu de délibérations à cet égard dans le sein du Congrès, que je ne puis prendre, pour base de mon opinion, rien qui ait été fait ou dit dans son enceinte. Cependant ce sujet a fixé l'attention de plusieurs sociétés commerciales importantes aux Etats-Unis, et le temps est aujourd'hui si favorable que je crois être tout à fait certain que le Congrès adopterait toute mesure pratique ayant pour but d'assurer la circulation dans tout le monde commercial d'un étalon uniforme de valeur et d'échange.

La seule question à poser, c'est comment ce résultat peut être obtenu.

Le traité du 23 Décembre, 1865, entre la France, l'Italie, la Belgique, et la Suisse, et l'acquiescement probable de la Prusse à ce traité, ont fourni les bases qui doivent servir à la fixation de l'étalon. Si la Grande-Bretagne veut faire subir au souverain une réduction de 2 pence, et si les Etats-Unis réduisent d'un peu plus de 3 cents la valeur de leur dollar, on aura une valeur facile à évaluer en francs, dollars, et souverains, et qui passera facilement par tous pays, le dollar étant pris pour 5 francs, et le souverain pour 25 francs.

Cela mettra fin aux pertes et aux embarras qui résultent du change et de l'escompte.

Notre dollar d'or est certainement une unité de valeur aussi bonne que le franc, et les Anglais ont la même opin-

These coins are now exchangeable only at a considerable loss, and this exchange is a profit only to brokers and bankers. Surely each commercial nation should be willing to yield a little to secure a gold coin of equal value, weight, and diameter, from whatever mint it may have been issued.

As the gold five-franc piece is now in use by over sixty millions of people of several different nationalities, and is of convenient form and size, it may well be adopted by other nations as the common standard of value; leaving to each nation to regulate the divisions of this unit in silver coin or tokens.

If this is done, France will surely abandon the impossible effort of making two standards of value. Gold coins will answer all the purposes of European commerce. A common gold standard will regulate silver coinage, of which the United States will furnish the greater part, especially for the Chinese trade.

I have thought a good deal of how the object you propose may be most readily accomplished. It is clear that the United States cannot become a party to the treaty referred to. They could not agree upon the silver standard; nor could we limit the amount of our coinage, as proposed by the treaty. The United States is so large in extent, is so sparsely populated, and the price of labor is so much higher than in Europe, that we require more currency *per capita*. We now produce the larger part of the gold and silver of the world, and cannot limit our coinage, except by the wants of our people and the demands of commerce.

Congress alone can change the value of our coin. I see no object in negotiating with other powers on the sub-

ion de leur livre sterling. Toutefois ces monnaies ne peuvent s'échanger que moyennant une perte considérable, et cet échange ne profite qu'aux courtiers et aux banquiers. Toute nation commerçante consentirait sûrement à faire quelque concession pour obtenir la circulation d'une monnaie d'or ayant une valeur, un poids, et un diamètre constants, par quelque Monnaie qu'elle ait été fabriquée.

La pièce d'or de 5 francs est maintenant en usage chez plus de 60 millions d'hommes appartenant à des nationalités diverses; sa forme et sa dimension sont convenables; elle peut donc bien être adoptée par d'autres nations comme étalon commun de valeur, en laissant à chaque peuple la faculté de régler les sub-divisions de cette unité en monnaie d'argent ou de billon.

Si ce résultat est atteint, la France renoncera certainement à l'effort impossible de maintenir deux étalons monétaires. La monnaie d'or répondra à tous les besoins du commerce européen. L'existence d'un étalon d'or régularisera le monnayage de l'argent, dont les États-Unis fourniront la plus grande partie, principalement pour le commerce avec la Chine.

J'ai beaucoup réfléchi aux moyens d'accomplir le plus aisément possible ce que vous proposez. Il est clair que les États-Unis ne peuvent accéder au traité que j'ai déjà mentionné; ils ne sauraient accepter l'étalon d'argent ni limiter leur monnayage comme le traité l'impose. Les États-Unis ont une étendue si considérable, une population si disséminée, le prix de la main-d'œuvre y est si fort au-dessus de ce qu'il est en Europe, qu'il nous faut beaucoup plus de monnaie par tête d'habitant. En outre, nous produisons la plus grande partie de l'or et de l'argent employés dans le monde, et nous ne pouvons fixer à notre monnayage d'autres limites que les besoins de notre peuple et les demandes du commerce.

Le Congrès seul peut changer la valeur de notre monnaie. Je ne vois pas qu'il y ait lieu d'entamer à ce sujet des



ject. As coin is not now in general circulation with us, we can readily fix by law the size, weight and measure of future issues. It is not worth while to negotiate about that which we can do without negotiation, and we do not wish to limit ourselves by treaty restrictions.

In England, many persons of influence and different Chambers of commerce are earnestly in favor of the proposed change in their coinage. The change is so slight with them, that an enlightened self-interest will soon induce them to make it; especially if we make the greater change in our coinage. We will have some difficulty in adjusting existing contracts with the new dollar; but as contracts are now based upon the fluctuating value of paper money, even the reduced dollar in coin will be of more purchasable value than our currency.

We can easily adjust the reduction with the public creditors in the payment or conversion of their securities, while private creditors might be authorized to recover upon the old standard. All these are matters of detail to which I hope the commission will direct their attention.

And now, my dear sir, allow me to say in conclusion, that I heartily sympathize with you and others in your efforts to secure the adoption of the metrical system of weights and measures.

The tendency of the age is to break down all needless restrictions upon social and commercial intercourse. Nations are now as much akin to each other as provinces were of old. Prejudices disappear by contact. People of different nations learn to respect each other as they find that their differences are the effect of social and local custom not founded upon good reasons. I trust that the Industrial Commission will enable the world to compute the

negociations avec les autres puissances. Comme il n'y a pas de monnaie de circulation générale qui nous soit commune avec d'autres peuples, nous pouvons aisément fixer par une loi la dimension, le poids et la valeur des futures émissions. Il est inutile de négocier sur ce que nous pouvons faire sans négociations, et nous ne désirons pas nous soumettre aux restrictions des traités.

En Angleterre, plusieurs personnes influentes et différentes chambres de commerce sont très-favorables au changement qu'on propose d'apporter à leur monnaie. Ce changement est si faible chez eux que l'intérêt bien entendu amènera bientôt à l'adopter, surtout si nous faisons le changement plus considérable qu'on nous demande. Nous aurons quelques difficultés à adapter au nouveau dollar les contrats déjà existants; mais les contrats étant basés actuellement sur la valeur variable du papier-monnaie, même le dollar d'or sera d'un usage plus commode que notre monnaie fiduciaire.

Nous pouvons aisément faire accepter la réduction aux créanciers publics par le remboursement ou la conversion de leurs titres, tandis que les créanciers privés pourront être autorisés à opérer leurs recouvrements sur le pied de l'ancien étalon. Tout cela ce sont des points de détail sur lesquels je pense que la commission arrêtera toute son attention.

Et maintenant, cher monsieur, permettez moi de dire en terminant, que je sympathise de grand cœur avec vous et vos collègues dans les efforts que vous faites pour assurer l'adoption du système métrique des poids et mesures.

La tendance de notre époque est de faire tomber toutes les restrictions inutiles apportées aux relations sociales et commerciales. Les nations sont aujourd'hui aussi voisines les unes des autres qu'étaient autrefois les provinces d'un même pays. Le contact fait disparaître les préjugés. Les peuples des contrées diverses apprennent à se respecter les uns les autres, parce qu'ils reconnaissent que les barrières qui les séparent sont le résultat de coutumes

value of all productions by the same standard, to measure by the same yard or metre, and weigh by the same scales.

Such a result would be of greater value than the usual employments of diplomatists and statesmen.

I am very truly yours,  
JOHN SHERMAN.

sociales et locales, et n'ont pas de bonnes raisons pour base. J'ai la confiance que le comité organisé à l'Exposition de l'Industrie mettra le monde en état de rapporter au même étalon la valeur de tous les produits, et d'évaluer toutes les mesures par le même yard ou le même mètre, tous les poids par les mêmes unités.

Un pareil résultat aurait une plus haute valeur que tous les objets auxquels s'emploient d'ordinaire les diplomates et les hommes d'état.

Votre bien sincèrement dévoué,  
JOHN SHERMAN.





## LETTER.

FROM

## THE SECRETARY OF THE TREASURY,

IN ANSWER TO

*Resolution of the 3d ultimo, requesting him to report the amount and character of the taxes collected from the national banks since their establishment, &c.; transmitting copies of reports from the Commissioner of Internal Revenue and the United States Treasurer in answer thereto.*

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JANUARY 8, 1868.—Referred to the Committee on Finance and ordered to be printed.

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TREASURY DEPARTMENT, *January 7, 1868.*

SIR: I have the honor to acknowledge the receipt of Senate resolution of the 3d ultimo, "requesting the Secretary of the Treasury to report to the Senate the amount and character of taxes, including the amount received for licenses, collected from the national banks for each year since their establishment, and the amount of taxes levied and collected by the several States upon the stock of said banks, as nearly as it can be ascertained; also, the amount of bonds deposited with the government as security for national bank currency, with the amount of interest paid thereon annually in gold, and the value thereof in legal-tender notes," and to transmit herewith copies of reports from the Commissioner of Internal Revenue and the Treasurer of the United States, which are believed to cover the requirements of the resolution.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

The PRESIDENT of the United States Senate.

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TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, December 11, 1867.*

SIR: In reply to that part of a resolution passed by the Senate December 3, 1867, which requests the Secretary of the Treasury to report to the Senate the character and amount of taxes collected from national banks since their establishment, I have to say that no taxes were received by this office from national banks prior to the fiscal year ending June 30, 1864; and the manner in which collections are reported to this office since that time does not enable me to discriminate the taxes paid by national banks from those paid by State banks and private bankers. During the fiscal year ending June 30, 1864, incorporated banks were not subject to license tax as bankers, but if they engaged in the business defined by the statute as that of a broker, they were liable as such. The amount thus collected was returned with the tax on brokers. The receipts from this source for that year were \$98,678 05. The license or special tax for the fiscal

years ending June 30, 1865-'66-'67, was imposed upon national banks, State banks, and private bankers, and the amounts collected from all these sources for those years were as follows :

In 1865 .....	\$846,686 58
In 1866 .....	1,262,649 05
In 1867 .....	1,433,715 79

The tax upon dividends and profits is imposed upon all incorporated banks, whether State or national, and from this source was collected :

In 1864 .....	\$1,577,010 73
In 1865 .....	4,016,722 91
In 1866 .....	4,240,663 20
In 1867 .....	3,774,975 32

The tax imposed directly upon the capital, circulation, and deposits of national banks is paid to the Treasurer of the United States, and is not reported to this office.

Those national banks which were converted from State banks pay internal revenue tax if there is sufficient of the old State circulation outstanding. The collections on circulation were \$1,993,661 84 in 1865; \$990,328 11 in 1866, \$214,298 75 in 1867. Of these amounts a portion was probably paid by national banks on this outstanding State circulation.

Very respectfully,

E. A. ROLLINS,  
*Commissioner.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

TREASURY OF THE UNITED STATES, DIVISION OF NATIONAL BANKS,  
*Washington, December 28, 1867.*

SIR: I have the honor to return herewith the copy of the resolution of the Senate of the United States, of the date of December 3, referred by you to myself, "for report upon so much thereof as relates to" *this* "office," with the following statements, which embrace such information called for by the resolution as can be furnished from the books of this office.

The "semi-annual duty" collected of the national banks under the forty-first section of the national currency act has been, since their establishment, as follows:

1864.		
Duty for six months ending June 30.....	\$167,537 26	
Duty for six months ending December 31 ...	588,788 81	
	<u>756,326 07</u>	
Deduct an amount refunded as paid in excess in 1864 .....	2,610 85	
Leaving net duty for 1864.....		\$753,715 22
1865.		
Duty for six months ending June 30.....	1,363,853 06	
Duty for six months ending December 31 ...	2,428,031 75	
	<u>3,791,884 81</u>	
Deduct amount refunded as paid in excess in 1865.....	57,736 91	
Leaving net duty for 1865.....		3,734,147 90



# TAXES COLLECTED FROM NATIONAL BANKS.

3

1866.

Duty for six months ending June 30.....	\$2,717,369 52
Duty for six months ending December 31 ...	2,940,246 84
	<u>\$5,657,616 36</u>
Deduct amount refunded as paid in excess in 1866 .....	935 05
Leaving net duty for 1866.....	\$5,656,681 31

1867.

Duty for six months ending June 30—returns incomplete, may be slightly changed—now stands at .....	2,893,786 07
Total duty .....	<u>13,038,330 50</u>

The foregoing being duty on capital circulation and deposits only, there should be added, to show the total amount of duty and taxes paid by national banks to the government, the taxes and license fees collected through the internal revenue office.

The amount of bonds at this date held as security for national bank currency is \$340,997,750, as follows :

Bonds bearing interest at rate of six per cent., coin .....	\$247,763,800
Bonds bearing interest at rate of five per cent., coin .....	89,656,950
Bonds bearing interest at rate of six per cent., lawful money....	3,577,000
	<u>340,991,750</u>

The statement attached hereto shows the amount of interest due, at the several dates at which interest has matured, upon bonds held as security for the circulation of national banks, commencing with the first payment of interest after the first deposit of bonds by the banks, and extending to and including the last payment, on 1st ultimo.

It shows, as required by the resolution, the amount of interest due *annually* upon such bonds the amount of interest payable in coin, and the value thereof in lawful money ; also, the amount of interest due in lawful money upon such bonds as bear interest in lawful money.

The value in lawful money of the coin interest was ascertained by adding to the amounts of coin interest due at any date the premium on coin, according to the quotations of the New York gold exchange on that day at 12 m.

The following is condensed from the statement referred to accompanying this report :

	1863.	1864.	1865.	1866.	1867.	Aggregate.
Amount of interest in coin .....	\$177,711 00	\$2,381,244 00	\$11,591,843 50	\$18,442,627 25	\$19,289,939 00	\$51,883,364 75
Value of the same in lawful money.	259,221 67	5,105,338 68	18,094,147 76	26,178,764 44	26,529,651 61	76,167,124 16
Amount of interest in lawful money .....			7,500 00	118,980 00	214,620 00	341,100 00
Value in lawful money of total interest due .....	259,221 67	5,105,338 68	18,101,647 76	26,297,744 44	26,744,271 61	76,508,224 16

Respectfully submitted :

F. E. SPINNER,  
Treasurer United States.

Hon. H. McCulloch,  
Secretary of the Treasury.

## TAXES COLLECTED FROM NATIONAL BANKS.

*Statement showing the coin and currency interest that was due at stated periods to secure circulating national bank notes, and the*

Description of bonds.	Bonds held upon which interest was due.	
	July 1.	November 1.
Bonds be		
Act of Janua		
Act of March		
Act of Febru		
Act of Febru		
Act of March	\$27,230 00	
Act of July 1		
Act of July 1	15,000 00	
Act of March		
Act of March		
Act of Febru		\$2,602,000 00
Act of Febru		3,972,450 00
Act of June :		
Act of March		
Act of March 3, 1865, 1st section, (registered)		
Amount of bonds	42,230 00	3,981,450 00
Six months' interest, 3 per cent., in coin	1,267 50	176,443 50
Quotations New York Gold Exchange	1 44½	1 45½
Value in lawful money	1,834 71	257,296 96
Bonds bearing 5 per cent. interest in coin :		
Act of June 14, 1858, (registered)		
Act of June 14, 1858, (coupon)		
Act of June 22, 1860, (registered)		
Act of March 3, 1864, (registered)		
Act of March 3, 1864, (coupon)		
Amount of bonds		
Six months' interest, 2½ per cent., in coin		
Quotations New York Gold Exchange		
Value in lawful money		
Bonds bearing 6 per cent. interest currency :		
Acts of July 1, 1863, and July 2, 1864, (registered)		
Six months' interest, 3 per cent., in currency		

### TAXES COLLECTED FROM NATIONAL BANKS.

*upon the United States bonds held by the Treasurer of the United States in trust  
value, in lawful money, of such interest when due.*

**Bonds held upon which interest was due.**

1864.					1865.	
January 1.	May 1.	July 1.	September 1.	November 1.	January 1.	March 1.
		\$10,000 00			\$10,000 00	
		10,000 00			12,000 00	
\$92,000 00		365,000 00			901,000 00	
41,000 00		214,000 00			50,000 00	
27,250 00		43,250 00			43,250 00	
222,000 00		1,784,000 00			15,057,650 00	
158,000 00		830,500 00			129,500 00	
					20,460,350 00	
	\$14,352,200 00			\$21,976,800 00		
	14,669,150 00			14,522,400 00		
				1,543,000 00		
546,250 00	29,021,350 00	3,256,750 00		38,042,200 00	36,663,750 00	
16,387 50	870,640 50	97,702 50		1,141,266 00	1,099,912 50	
1 51½	1 76	2 36		2 35¼	2 27½	
24,847 55	1,532,327 28	230,577 90		2,690,534 59	2,498,176 27	
		90,000 00			80,000 00	
					10,000 00	
					82,000 00	
			\$7,599,000 00			\$34,325,300 00
			2,520,900 00			1,329,900 00
		90,000 00	10,119,900 00		172,000 00	35,655,200 00
		2,250 00	252,997 50		4,300 00	891,380 00
		2 36	2 45¼		2 27½	2 60½
		5,310 00	621,741 36		9,766 37	1,784,988 45

## TAXES COLLECTED FROM NATIONAL BANKS.

*Statement showing the coin and currency interest that was due*

Description of bonds.	Bonds held upon which interest was due.	
	1865.	
	May 1.	July 1.
<b>Bonds bearing 6 per cent interest in coin :</b>		
Act of January 28, 1847, (registered) .....		\$65,000 00
Act of March 31, 1848, (registered) .....		12,000 00
Act of February 8, 1861, (registered) .....		2,405,000 00
Act of February 8, 1861, (coupon) .....		50,000 00
Act of March 2, 1861, (coupon) .....		43,250 00
Act of July 17 and August 5, 1861, (registered) .....		44,054,200 00
Act of July 17 and August 5, 1861, (coupon) .....		129,500 00
Act of March 3, 1863, (registered) .....		32,017,050 00
Act of March 3, 1865, 2d section, (registered) .....		
Act of February 25, 1862, (registered) .....	\$46,149,200 00	
Act of February 25, 1862, (coupon) .....	6,076,000 00	
Act of June 30, 1864, (registered) .....	20,147,300 00	
Act of March 3, 1864, (registered) .....		
Act of March 3, 1865, 1st section, (registered) .....		
<b>Amount of bonds</b> .....	<b>72,372,500 00</b>	<b>78,776,000 00</b>
<b>Six months' interest, 3 per cent., in coin</b> .....	<b>2,171,175 00</b>	<b>2,363,280 00</b>
<b>Quotations New York Gold Exchange</b> .....	<b>1 43 15-16</b>	<b>1 40 5-16</b>
<b>Value in lawful money</b> .....	<b>3,125,135 01</b>	<b>3,315,977 25</b>
<b>Bonds bearing 5 per cent. interest in coin :</b>		
Act of June 14, 1858, (registered) .....		490,000 00
Act of June 14, 1858, (coupon) .....		10,000 00
Act of June 22, 1860, (registered) .....		164,000 00
Act of March 3, 1864, (registered) .....		
Act of March 3, 1864, (coupon) .....		
<b>Amount of bonds</b> .....		<b>664,000 00</b>
<b>Six months' interest, 2½ per cent., in coin</b> .....		<b>16,600 00</b>
<b>Quotations New York Gold Exchange</b> .....		<b>1 40 5-16</b>
<b>Value in lawful money</b> .....		<b>23,291 87</b>
<b>Bonds bearing 6 per cent. interest in currency :</b>		
Acts of July 1, 1862, and July 2, 1864, (registered) .....		250,000 00
<b>Six months' interest, 3 per cent., in currency</b> .....		<b>7,500 00</b>

## TAXES COLLECTED FROM NATIONAL BANKS.

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*at stated periods upon the United States bonds, &c.—Continued.*

Bonds held upon which interest was due.

1865.		1866.				
September 1.	November 1.	January 1.	March 1.	May 1.	July 1.	September 1.
		\$90,000 00			\$115,000 00	
		18,000 00			28,000 00	
		3,095,000 00			3,429,000 00	
		25,000 00			25,000 00	
		43,250 00			43,250 00	
		57,539,550 00			60,476,950 00	
		19,500 00			19,500 00	
		35,810,100 00			36,456,200 00	
	\$70,087,850 00			\$70,477,350 00		
	2,434,200 00			1,733,200 00		
	34,357,150 00			37,679,800 00		
				3,557,500 00		
	315,000 00			20,615,000 00		
	107,194,200 00	96,640,400 00		134,062,850 00	100,592,900 00	
	3,215,826 00	2,899,212 00		4,021,885 50	3,017,787 00	
	1 45½	1 44½		126	1 53½	
	4,691,086 18	4,192,985 35		5,067,575 73	4,636,075 28	
		895,000 00			1,165,000 00	
		198,000 00			218,000 00	
\$72,413,800 00			\$81,139,600 00			\$85,208,550 00
761,000 00			700,000 00			260,000 00
73,174,800 00		1,093,000 00	81,839,600 00		1,383,000 00	85,468,550 00
1,829,370 00		27,325 00	2,045,990 00		34,575 00	2,136,713 75
1 44½		1 44½	1 36½		1 53½	1 46
2,645,726 36		39,518 78	2,787,661 37		53,115 84	3,119,602 07
		898,000 00			3,068,000 00	
		26,940 00			92,040 00	

*Statement showing the coin and currency interest that was due*

Description of bonds.	Bonds held upon which interest was due.	
	1866.	1867.
	November 1.	January 1.
<b>Bonds bearing 6 per cent. interest in coin :</b>		
Act of January 28, 1847, (registered) .....		\$100,000 00
Act of March 31, 1848, (registered) .....		38,000 00
Act of February 8, 1861, (registered) .....		3,616,000 00
Act of February 8, 1861, (coupon) .....		1,000 00
Act of March 2, 1861, (coupon) .....		43,250 00
Act of July 17 and August 5, 1861, (registered) .....		60,519,900 00
Act of July 17 and August 5, 1861, (coupon) .....		9,000 00
Act of March 3, 1863, (registered) .....		36,685,250 00
Act of March 3, 1865, 2d section, (registered) .....		4,464,950 00
Act of February 25, 1862, (registered) .....	\$72,101,150 00	
Act of February 25, 1862, (coupon) .....	291,200 00	
Act of June 30, 1864, (registered) .....	38,388,950 00	
Act of March 3, 1864, (registered) .....	3,503,500 00	
Act of March 3, 1865, 1st section, (registered) .....	27,686,500 00	
<b>Amount of bonds</b> .....	<b>141,971,300 02</b>	<b>105,477,350 00</b>
<b>Six months' interest, 3 per cent., in coin</b> .....	<b>4,259,139 00</b>	<b>3,164,320 50</b>
<b>Quotations New York Gold Exchange</b> .....	<b>1 47½</b>	<b>1 32½</b>
<b>Value in lawful money</b> .....	<b>6,282,230 02</b>	<b>4,196,680 00</b>
<b>Bonds bearing 5 per cent. interest in coin :</b>		
Act of June 14, 1858, (registered) .....		1,240,000 00
Act of June 14, 1858, (coupon) .....		
Act of June 22, 1860, (registered) .....		242,000 00
Act of March 3, 1864, (registered) .....		
Act of March 3, 1864, (coupon) .....		
<b>Amount of bonds</b> .....		<b>1,482,000 00</b>
<b>Six months' interest, 2½ per cent., in coin</b> .....		<b>37,050 00</b>
<b>Quotations New York Gold Exchange</b> .....		<b>1 32½</b>
<b>Value in lawful money</b> .....		<b>49,137 56</b>
<b>Bonds bearing 6 per cent. interest in currency :</b>		
Acts of July 1, 1862, and July 2, 1864, (registered) .....		3,577,000 00
<b>Six months' interest, 3 per cent., in currency</b> .....		<b>107,310 00</b>
<b>Total aggregates</b> .....		

## RECAPIT

	1863.
Total amount of interest in coin .....	\$177,711 00
Value of same in lawful money .....	259,221 67
Total amount of interest in currency .....	
Value in lawful money of total interest due .....	259,221 67



TAXES COLLECTED FROM NATIONAL BANKS.

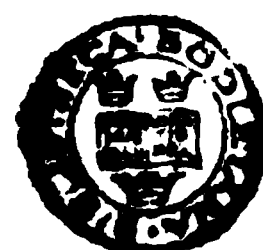
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at stated periods upon the United States bonds, &c.—Continued.

Bonds held upon which interest was due.					Aggregates.	
1867.					Coin.	Lawful money.
March 1.	May 1.	July 1.	September 1.	November 1.		
		\$65,000 00				
		33,000 00				
		3,612,000 00				
		1,000 00				
		43,250 00				
		59,854,300 00				
		9,000 00				
		36,383,350 00				
		10,022,500 00				
	\$70,251,950 00			\$66,751,950 00		
	119,200 00			4,200 00		
	38,994,250 00			38,988,150 00		
	3,503,500 00			3,503,500 00		
	28,032,800 00			28,048,800 00		
	140,901,700 00	110,023,400 00		137,296,600 00		
	4,227,051 00	3,300,702 00		4,118,898 00	\$40,162,896 00	
	1 35½	1 38½		1 40½		
	5,711,802 66	4,559,094 64		5,792,200 31		\$58,806,527 75
		1,160,000 00				
\$2,298,600 00		181,000 00				
10,000 00			\$88,017,100 00			
			10,000 00			
\$2,308,600 00		1,341,000 00	88,027,100 00			
2,207,715 00		33,525 00	2,200,677 50		11,720,468 75	
1 39		1 38½	1 41½			
3,068,723 85		46,306 41	3,105,706 12			17,360,596 41
		3,577,000 00				
		107,310 00				341,100 00
					51,883,364 75	76,508,224 16

ULATION.

1864.	1865.	1866.	1867.	Aggregates.
\$2,381,244 00	\$11,591,843 30	\$18,442,627 25	\$19,289,939 00	\$51,883,364 75
5,105,338 68	18,094,147 76	26,178,764 44	26,529,651 61	76,167,124 16
	7,500 00	118,980 00	214,620 00	341,100 00
5,105,338 68	18,101,647 76	26,297,744 44	26,744,271 61	76,508,224 16



# MESSAGE

OF

## THE PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A report and accompanying papers from the Secretary of State, in compliance with the 18th section of the act approved August 18, 1856, regulating the diplomatic and consular systems of the United States.*

JANUARY 9, 1868.—Read, referred to the Committee on Commerce, and ordered to be printed.

*To the Senate and House of Representatives :*

I herewith transmit to Congress a report, dated 20th instant, with the accompanying papers, received from the Secretary of State, in compliance with the requirements of the 18th section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856.

ANDREW JOHNSON.

WASHINGTON, *December 20, 1867.*

DEPARTMENT OF STATE,  
*Washington, December 21, 1867.*

The Secretary of State, in obedience to the 18th section of the act entitled "An act to regulate the diplomatic and consular systems of the United States," approved August 18, 1856, requiring "all such consuls general, consuls, commercial agents, consular agents as are allowed for their compensation the whole or any part of the fees which they may collect pursuant to the provisions of this act, and all vice-consuls and vice-commercial agents appointed to perform the duties of said consuls general, consuls, and commercial agents as are allowed for their compensation the whole or any part of such fees as aforesaid, shall make returns of all such fees as they or any other persons in their behalf shall so collect, in such manner as the Secretary of State shall prescribe; and all such fees as shall be so collected, accounted for, and reported, shall be reported annually to Congress, with the report of the rates and tariffs of fees required by the 17th section of this act, with a full list of all consular officers," has the honor to lay before the President a copy of the papers specified in the subjoined list.

WILLIAM H. SEWARD.

*The PRESIDENT of the United States.*

*List of papers accompanying the report of the Secretary of State to the President.*

1. Fees collected, accounted for, and reported by consular officers of the United States for the year 1866, with a full list of all consular officers on the 31st December, 1866, and the place of their official residence, arranged in alphabetical order.

2. Tariff of consular fees.

# DIPLOMATIC AND CONSULAR SYSTEMS.

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*Report of fees collected, accounted for, and reported by the consular officers of the United States for the year 1866, together with a full list of all consular officers in office December 31, 1866, and the places of their official residence.*

Consular offices.	Consular officers.	Rank.	Fees, 1866.	Remarks.
Aberdeen.....	Alex. Brand.....	Consular agent.....	\$257 13	1st, 3d, and 4th quarters not reported.
Acapulco.....	G. M. Cole.....	Commercial agent.....	1, 199 11	No report received.
Adelaide, (Australia).....	J. W. Smith.....	Consular agent.....	10 52	Do.
Adra.....	Ramon Medina.....	do.....	.....	No fees received.
Adrianople.....	T. E. Blunt.....	do.....	.....	No report received.
Aguadilla, (Porto Rico).....	C. Richeboff.....	Consul.....	.....	No fees received.
Aguas Calientes.....	M. Metcalf.....	Consul.....	.....	No fees received.
Aintab.....	S. de Picciotto.....	Consular agent.....	3, 908 00	1st and 4th quarters not reported.
Aix la Chapelle.....	W. H. Vesey.....	Consul.....	475 80	No report received.
Akyab.....	James Dickie.....	Consular agent.....	.....	No fees received.
Albany, (Australia).....	W. C. Clifton.....	.....	.....	No report received.
Aleppo, (Syria).....	J. de Picciotto.....	.....	.....	No fees received.
Alexandria.....	C. Hale.....	.....	.....	.....
Alexandretta.....	M. Levi.....	.....	.....	.....
Algiers.....	E. L. Kingsbury.....	Consul.....	27 00	2d, 3d, and 4th quarters not reported.
Alicante.....	W. L. Gero.....	do.....	8 37	No report received.
Almeria.....	F. F. Roman.....	Consular agent.....	.....	.....
Altona.....	W. Marsh.....	Consul.....	767 75	.....
Amoor River.....	P. McD. Collins.....	Commercial agent.....	98 45	.....
Amoy, (China).....	C. W. Le Gendre.....	.....	794 71	.....
Amsterdam.....	C. Mueller.....	Consul.....	910 97	.....
Ancona.....	Robert M. Beal.....	do.....	.....	Do.
Annapolis, (Nova Scotia).....	W. R. Kuggles.....	Consular agent.....	.....	Do.
Antigua.....	John Wilson.....	Commercial agent.....	.....	Do.
Antwerp.....	C. F. Storck.....	Consul.....	3, 389 26	.....
Arecibo.....	J. G. McKean.....	Consular agent.....	280 80	.....
Arichat.....	F. W. Rice.....	do.....	3, 365 71	Do.
Aspinwall.....	R. C. Yates.....	Consul.....	.....	Do.
Assunccion.....	J. B. C. Smith.....	do.....	.....	Do.
Athens.....	W. Colvin Brown.....	do.....	120 00	4th quarter not reported.
Augsburg.....	J. De Long.....	do.....	341 85	No report received.
Aux Cayes.....	H. L. Fourbeard.....	Consular agent.....	.....	.....
Avalto.....	.....	.....	.....	.....

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

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DIPLOMATIC AND CONSULAR SYSTEMS.

Consular offices.	Consular officers.	Rank.	Fees, 1866.	Remarks.
Bahia .....	R. A. Edis .....	Consul .....	\$1, 036 49	
Bankok .....	J. M. Hood .....	.....do .....	284 41	
Baracoa .....	P. E. Alayo .....	Consular agent .....	445 97	
Barbadoes .....	J. G. Morton .....	Consul .....	1, 217 36	
Barcelona .....	J. A. Little .....	.....do .....	445 97	
Barmen .....	J. H. Albers .....	Consular agent .....	9, 759 00	
Barrington .....	G. Robertson .....	.....do .....		No report received.
Basle .....	A. L. Wolf .....	Consul .....	4, 967 56	Do.
Bassin .....	J. Henderson .....	Consular agent .....		Do.
Basse Terre .....	A. Lacour .....	.....do .....		
Batavia .....	L. W. Tappin, jr .....	Vice-consul .....	369 25	
Bathurst .....	Thomas Brown .....	.....do .....	20 32	1st and 2d quarters not reported.
Bay of Islands .....		Consul .....		No report received.
Bayonne .....	S. R. Campbell .....	.....do .....		Do.
Beaumaris .....	T. R. Dew .....	Consular agent .....		Do.
Bedeque .....	J. C. Pope .....	.....do .....		Do.
Beirut .....	J. Aug. Johnson .....	Consul .....	57 00	
Belem .....	T. M. Besoney .....	Consular agent .....		Do.
Belfast .....	G. H. Heap .....	Consul .....	12, 735 08	
Belize .....	A. N. Miller .....	Vice-commercial agent .....	551 50	
Belleville .....	J. W. Carman .....	Consular agent .....	1, 037 28	
Bergen .....	H. J. Lockwood .....	Vice consul .....	49 22	
Berlin .....	H. Kreismann .....	Consul .....	5, 932 53	
Bermuda .....	C. M. Allen .....	.....do .....	807 45	
Bilbao .....	Lorenzo Dahl .....	Vice-consul .....	95 04	
Birmingham .....	Elihu Burritt .....	Consular agent .....	15, 995 25	
Bissao .....		Consul .....		No fees received.
Black River .....	J. W. Leyden .....	Consular agent .....	39 48	
Bogota .....	G. C. Crane .....	Vice-consul .....		No report received.
Bombay .....	G. A. Kettredge .....	.....do .....	252 71	1st and 2d quarters not received.
Bonaire .....	W. E. Boye .....	Consular agent .....	94 45	4th quarter not reported.
Bordeaux .....	W. E. Gleason .....	Consul .....	6, 212 90	
Bornholm .....	T. H. Ronne .....	Consular agent .....		No report received.
Boulogne .....	J. de la Montagnie .....	Consul .....	258 50	



Bradford .....	E. D. Webster .....	Commercial agent .....	15, 311 95	Do.
Brako .....	H. Muller .....	Consular agent .....	.....	Do.
Brava .....	J. J. Nunes .....	do .....	.....	
Bromen .....	G. S. Dodge .....	Consul .....	3, 051 00	
Bremerhaven .....	F. W. Spocht .....	Consular agent .....	2, 693 62	Do.
Brest .....	J. M. Keras .....	do .....	.....	
Brindisi .....	F. B. Huchting .....	Consul .....	6 13	
Bristol .....	Z. Eastman .....	do .....	857 18	
Brunai .....	C. L. Moses .....	do .....	15 50	1st, 2d, and 4th quarters not received.
Brunn .....	G. Schoeller .....	Consular agent .....	162 50	
Brunswick .....	W. W. Murphy .....	Consul .....	64 00	
Brussels .....	Aaron Goodrich .....	Vice-consul .....	.....	No report received.
Bucharest .....	L. J. Czapkay .....	Consul .....	.....	Do.
Buenaventura .....	J. M. Eder .....	do .....	.....	Do.
Buenos Ayres .....	H. R. Helper .....	do .....	484 83	
Brixham .....	E. Vetter .....	Consular agent .....	.....	Do.
Cacilhas .....	D. Alfonso .....	do .....	.....	Do.
Cadiz .....	R. F. Farrell .....	Consul .....	797 55	
Cagliari .....	E. Pernis .....	Consular agent .....	31 15	
Caipha .....	J. Nasrallah .....	do .....	.....	No fees received.
Cairo .....	G. C. Taylor .....	Consul .....	.....	No report received.
Calais .....	J. P. Vendroux .....	Consular agent .....	.....	Do.
Calamar .....	J. D. Sanchez .....	do .....	.....	Do.
Calcutta .....	N. P. Jacobs .....	Consul general .....	3, 532 22	
Caldera .....	A. Seiwertz .....	Consular agent .....	.....	No report received.
Callao .....	J. H. McColley .....	Consul .....	3, 931 24	
Caminha .....	A. M. Rua .....	Consular agent .....	.....	Do.
Campeachy .....	.....	Consul .....	.....	Do.
Canea, (Isle of Crete) .....	W. J. Stillman .....	do .....	.....	Do.
Canton .....	O. H. Perry .....	do .....	1, 712 93	
Cape Charles and Chateau Bay .....	J. W. Dodge .....	Consular agent .....	.....	Do.
Cape Haytien .....	A. Folsom .....	Consul .....	529 69	
Cape Town .....	W. Graham .....	Vice-consul .....	212 48	
Cardenas .....	N. Cross .....	Consular agent .....	3, 711 61	
Cardiff .....	C. E. Burch .....	Consul .....	2, 156 95	
Carlisle .....	T. Wright .....	Consular agent .....	.....	Do.
Carlsruhe .....	G. F. Kettell .....	Consul .....	3, 434 25	
Carrara .....	F. Torrey .....	do .....	398 50	
Carthagena .....	C. Molina .....	do .....	375 87	
Cascumpec .....	.....	Consular agent .....	.....	Do.
Catania .....	A. Peratoner .....	do .....	28 50	

DIPLOMATIC AND CONSULAR SYSTEMS.

Consular offices.	Consular officers.	Rank.	Fees, 1866.	Remarks.
Cayenne .....	C. E. Leland.....	Vice-consul .....	.....	No report received.
Ceara .....	J. S. de Vasconcelles.....	Consular agent .....	\$193 38	
Cecimbra .....	F. J. Lopez .....	do.....	.....	Do.
Cette .....	L. S. Nahmens .....	do.....	1, 027 63	
Ceylon.....	G. W. Prescott .....	Commercial agent .....	571 00	Do.
Chatham and Newcastle, (N. B.).....	.....	Consular agent .....	.....	
Chee Foo .....	E. T. Sanford .....	Consul .....	311 50	
Chemnitz .....	Richard Busse.....	Consular agent .....	857 50	3d and 4th quarters not received.
Cherbourg .....	E. Liais .....	do.....	.....	No report received.
Chicontimi .....	.....	do.....	.....	Do.
Chihuahua .....	R. W. Creel.....	Consul .....	129 00	4th quarter not received.
Chin Kiang .....	J. L. Kiernan .....	do.....	218 20	
Chippewa .....	John C. Kirkpatrick .....	Consular agent .....	225 11	
Chittagong.....	W. Farlie.....	do.....	.....	No report received.
Christiana.....	C. J. Kraby .....	Consul.....	.....	Do.
Christiansend.....	O. C. Reinhardt .....	Consular agent .....	.....	No fees received.
Cienfuegos .....	Gierman Barrio.....	do.....	.....	Do.
Ciudad Bolivar .....	John Dalton .....	Vice-consul .....	.....	No report received.
Civita Vecchia.....	G. Marsanick.....	Consular agent .....	.....	Do.
Clifton, C. W.....	W. Martin Jones .....	Censul.....	4, 300 00	
Coaticook .....	C. H. Powers.....	do.....	2, 806 25	
Cobija .....	Edward Burran.....	Vice-consul .....	70 88	
Cobourg .....	.....	Consular agent .....	.....	Do.
Cognac .....	William Coates .....	do.....	.....	Do.
Cologne .....	G. Holscher.....	do.....	2, 136 50	
Comayagua and Tegucigalpa .....	W. C. Burchard .....	Commercial agent .....	.....	Do.
Concelho da Boncas.....	A. F. A. Guimaraes .....	Consular agent .....	.....	Do.
Constantinople.....	J. H. Goodenow .....	Consul general .....	265 00	
Copenhagen .....	L. A. Hecksher.....	Vice-consul .....	156 95	
Coquimbo.....	C. C. Greene .....	Consul .....	.....	Do.
Corfu .....	T. Woodley.....	Consular agent .....	.....	Do.
Cork.....	E. G. Eastman .....	Consul .....	371 57	
Corunna .....	A. G. Fuortes .....	Consular agent .....	.....	Do.
Cow Bay.....	C. Archibald .....	do.....	.....	Do.

Cowes .....	T. Harling .....	do .....	2,004 50	Do.
Crofeld .....	P. Von Winkelman .....	do .....	389 20	Do.
Cronstadt .....	A. Wilkins .....	do .....		Do.
Crookhaven .....	do .....	do .....		
Cumaina .....	W. S. Cunningham .....	do .....		
Curacao .....	James Faxon .....	Consul .....	1,099 38	
Cyprus .....	L. P. di Cesnola .....	do .....		Do.
Damascus .....	M. Meshaka .....	Consular agent .....		No fees received.
Dantzic .....	P. Collas .....	do .....	70 37	
Dardanelles .....	C. Calvert .....	do .....		No report received.
Dartmouth .....	R. Kingston .....	do .....	2 00	
Demerara .....	P. Figyelmesy .....	Consul .....	1,428 16	
Denis .....	J. Morand .....	do .....		Do.
Dieppe .....	do .....	Consular agent .....		Do.
Digby .....	J. C. Wade .....	do .....		Do.
Dresden .....	W. S. Campbell .....	Consul .....	7,807 00	
Drontheim .....	J. F. Finne .....	Consular agent .....		Do.
Dublin .....	W. B. West .....	Vice-consul .....	1,028 89	
Dundalk .....	J. H. Carher .....	Consular agent .....		Do.
Dundee, (Scotland) .....	J. Smith .....	Consul .....	5,774 36	
Dundee, (Canada) .....	J. McMillen .....	Consular agent .....		Do.
Dunedin, (New Zealand) .....	H. Driver .....	do .....		Do.
Dunkirk .....	F. B. Morell .....	do .....		Do.
Dunville .....	do .....	do .....		Do.
Dusseldorf .....	H. W. Derby .....	do .....		Do.
East Harbor .....	E. Jones .....	do .....	234 77	
Elsinore .....	G. P. Hanson .....	Consul .....	11 50	
Espinho .....	J. J. D'Almeida .....	Consular agent .....		Do.
Falmouth, (England) .....	A. Fox .....	Consul .....	142 43	
Falmouth, (Jamaica) .....	R. Nunes .....	Consular agent .....	96 00	
Fano .....	J. K. Bork .....	do .....		Do.
Faro .....	F. L. Javarez .....	do .....		Do.
Fayal .....	C. W. Dabney .....	Consul .....	575 46	
Figueira .....	C. Laidley .....	Consular agent .....		Do.
Fiume .....	L. Francovitch .....	do .....		No fees received.
Florence .....	T. B. Lawrence .....	Consul general .....	1,333 50	
Flores .....	F. J. M. Henrique .....	Consular agent .....	19 50	
Fogo, (Cape Verde islands) .....	J. C. Bubosa .....	do .....		No report received
Foo Chaw .....	A. Canfield .....	Consul .....	586 81	
Fort de France .....	A. Nollet .....	Consular agent .....		Do.
Fort Erie .....	F. N. Blake .....	Consul .....	5,454 00	

DIPLOMATIC AND CONSULAR SYSTEMS.

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

					No report received. Do.
Frederickshaven .....	F. C. Kall .....	.....	.....	.....	
Freemantle .....	T. Pope .....	.....	.....	252 94	
Funchal .....	Charles A. Lees .....	Consul .....	.....	46 50	
Gaunchoa .....	E. E. Abbott .....	Consular agent .....	.....	13 80	
Gaboon .....	Augustus Perrot .....	Commercial agent .....	.....		Do.
Galatza .....	A. Hartman .....	Vice-consul .....	.....		Do.
Gallipoli .....	C. Clauson .....	Consular agent .....	.....	370 34	
Galway .....	W. B. West .....	Consul .....	.....	23 25	
Gaspe Basin .....	H. Le Bontillier .....	Vice-consul .....	.....	259 74	
Geesternunde .....	.....	Consular agent .....	.....		
Gefle .....	R. Rettig .....	.....do.....	.....		
Geneva .....	C. H. Upton .....	Consul .....	.....	1,180 50	
Geneva .....	O. M. Spencer .....	.....do.....	.....	1,204 93	
Georgetown, (Prince Edward islands) .....	A. A. McDonald .....	Consular agent .....	.....		Do.
Ghent .....	M. J. Liverson .....	Consul .....	.....	167 00	
Gibara .....	J. Leal, jr .....	Consular agent .....	.....		Do.
Gibraltar .....	H. J. Sprague .....	Consul .....	.....	485 90	
Girgend .....	L. Granet .....	Consular agent .....	.....	130 20	
Glasgow .....	W. L. Duff .....	Consul .....	.....	11,516 17	
Gloucester .....	E. L. Kendall .....	Consular agent .....	.....	71 86	
Glouckstadt .....	J. C. Schench .....	.....do.....	.....		Do.
Goderich .....	Thomas Alcock .....	Consul .....	.....	2,132 62	
Gonaives .....	A. Hilsenbach .....	Consular agent .....	.....	379 99	
Gottenburg .....	F. K. Basier .....	Vice-consul .....	.....	466 37	
Graciosa .....	B. A. da C. S. Bettencourt .....	Consular agent .....	.....		Do.
Grand Caymans .....	W. Eden .....	.....do.....	.....	45 20	
Guadeloupe .....	H. Thionville .....	Consul .....	.....	680 94	
Guantanamo .....	F. Badell .....	Consular agent .....	.....		Do.
Guatemala City .....	F. Medina .....	Acting consul .....	.....	29 00	
Guaymas .....	C. H. Verges .....	Consular agent .....	.....	492 14	
Guayanilla .....	.....	.....do.....	.....		Do.

2d and 4th quarters not received; as reported by W. C. Brown.  
No report received.

Guayaquil .....	L. V. Provost .....	Consul .....	541 52
Guaymas .....	E. Conner .....	do .....	857 44
Guernsey .....	A. Carey .....	Consular agent .....	8 00
Guyaborough .....	C. H. Franchville .....	do .....	
Hakodadi .....	E. E. Rice .....	Consul .....	
Halifax .....	M. M. Jackson .....	do .....	3,347 04
Hamburg .....	Samuel T. Williams .....	do .....	8,552 34
Hamilton, (Bermuda) .....	J. T. Darrell .....	Consular agent .....	1,588 57
Hamilton, (Canada) .....	J. B. Jones .....	do .....	909 31
Hanover .....	W. Colvin Brown .....	Consul .....	1,858 41
Hankow .....	G. H. C. Salter .....	Vice-consul .....	
Harbor Island .....	W. H. Sears .....	Consular agent .....	
Havana .....	W. T. Minor .....	Consul general .....	19,715 45
Havre .....	Dwight Morris .....	Consul .....	5,715 45
Helsingfors .....	R. O. Franckell .....	Vice-consul .....	
Hemmingsford .....	G. W. Burdick .....	Consular agent .....	
Hesse Cassel .....	W. W. Murphy .....	Consul .....	923 75
Hesse Darmstadt .....	W. W. Murphy .....	do .....	2,887 25
Hesse Hombourg .....	W. W. Murphy .....	do .....	48 00
Hilo .....	J. Worth .....	Vice-consul .....	525 47
Hobart Town .....	D. McPherson, jr .....	do .....	
Honfleur .....	C. Wagner .....	Consular agent .....	
Hong Kong .....	Isaac J. Allen .....	Consul .....	4,767 96
Honolulu .....	M. L. Smith .....	do .....	6,828 10
Huddersfield .....	T. Stevenson .....	Consular agent .....	2,203 00
Hull .....	H. J. Atkinson .....	do .....	398 71
Huntington .....	.....	do .....	
Huelva, (Spain) .....	M. Zafra .....	do .....	
Iloilo .....	W. B. Loring .....	do .....	
Inagua .....	D. Sargent .....	do .....	313 25
Isle de Re .....	F. Baudin .....	do .....	
Ivica, (Island) .....	Wm. Wallace .....	do .....	17 00
Jacmel .....	Charles Moravia .....	Agent of commercial agent .....	
Jaffa .....	T. F. H. Lowenthal .....	Consular agent .....	
Jalapa .....	J. L. Kennedy .....	do .....	
Jeremie .....	J. Vigoureux .....	Agent of commercial agent .....	
Jersey Island .....	T. Renouf .....	Consular agent .....	10 52
Jerusalem .....	V. Beauboucher .....	Consul .....	2 00
Kanagawa .....	Julius Stabel .....	do .....	1,201 70
Kingston, (Jamaica) .....	Aaron Gregg .....	do .....	2,047 58
Kingston, (Canada) .....	S. B. Hance .....	do .....	3,762 04

Do.  
Do.

4th quarter not received.

No fees received.  
No report received.

Do.  
Do.

2d, 3d, and fourth quarters not received.

No report received.  
Do.

3d and 4th quarters not received.  
2d quarter not received.  
No report received.

Do.  
Do.

No fees received.

No report received.  
Do.  
Do.  
Do.

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

				emarks.
Kingstown, (Ireland).....	M. Murphy.....	Consular agent.....	.....	No report received.
Kin Xiang.....	H. G. Bridges.....	Vice-consul.....	.....	Do.
Königsburg.....	J. H. Brockman.....	Consular agent.....	\$90 50	Do.
Kurrachee.....	B. F. Farnham.....	do.....	.....	Do.
Lacolle.....	.....	do.....	.....	Do.
Legos.....	J. M. Macarenhas.....	do.....	.....	Do.
Lagunys.....	C. H. Loehr.....	Consul.....	725 07	Do.
Laguna.....	J. M. Rodra.....	do.....	.....	Do.
Lahaina.....	E. Perkins.....	do.....	177 12	Do.
Lambayeque.....	S. C. Montjoy.....	Vice-consul.....	133 75	Do.
Lantbal.....	F. F. Bunnell.....	Commercial agent.....	.....	Do.
Lanzarote.....	J. T. Topham.....	Consular agent.....	1 02	Do.
Latakia.....	D. Mathenny.....	do.....	.....	Do.
La Paz, San José, and Cape St. Lucas.....	Francis B. Elmer.....	Consul.....	249 44	Do.
Las Palmas.....	F. W. Manly.....	Consular agent.....	116 95	Do.
La Tremblade.....	M. Robineau.....	do.....	.....	Do.
La Rochelle.....	Thomas P. Smith.....	Consul.....	469 00	Do.
Latakia, (Syria).....	S. Vitell.....	Consular agent.....	.....	No fees received.
La Union.....	J. W. Livingston.....	Consul.....	126 10	3d and 4th quarters not received.
Leas.....	J. de C. T. Guimarães.....	Consular agent.....	.....	No report received.
Leeds.....	W. L. Raymond.....	Consul.....	3,290 00	
Leghorn.....	J. Hutchingson.....	do.....	1,445 21	
Leith.....	D. Gould.....	do.....	2,698 48	
Leipsic.....	T. Y. Dickinson.....	do.....	7,024 25	
Lieke.....	J. Mastromini.....	Consular agent.....	105 28	
Limerick.....	Arthur Geneart.....	Vice-consul.....	798 50	
Limoges.....	M. R. Ryan.....	Consular agent.....	.....	Do.
Lingau.....	Charles E. Haviland.....	do.....	90 00	1st, 2d, and 4th quarters not received.
Liabon.....	F. E. Leaver.....	do.....	.....	No report received.
Liverpool, (England).....	C. A. Monro.....	Consul.....	589 58	
Liverpool, (Nova Scotia).....	Thomas H. Dudley.....	do.....	35,290 78	
Llanely.....	.....	Consular agent.....	.....	Do.
London, (England).....	R. Dunkin.....	do.....	.....	Do.
.....	F. H. Morse.....	Consul.....	40,765 91	



	Alex. Henderson.....	.....do.....	291 04	1st quarter not received. No report received.
Londonderry .....	.....do.....	Consular agent.....	.....	
L'Orient.....	P. J. Osterhaus.....	Consul .....	10, 202 25	Do.
Lyons .....	W. W. Murphy.....	.....do.....	.....	
Lubeck.....	W. P. Jones.....	.....do.....	74 62	
Macao, (China).....	J. Borstlemann.....	Consular agent.....	15 50	Do.
Macco, (Brazil).....	J. H. Evora.....	.....do.....	.....	
Maio.....	A. M. Hancock .....	Consul .....	1, 196 09	
Malaga.....	W. Winthrop.....	.....do.....	73 02	
Malta, (Island).....	H. W. Lord.....	.....do.....	26, 724 50	
Manchester.....	C. Griswald.....	.....do.....	754 00	
Manila.....	T. F. A. Agnew.....	Consular agent.....	.....	No report received.
Madras.....	L. Stoll.....	.....do.....	.....	Do.
Mannheim.....	M. R. Ecay.....	.....do.....	.....	Do.
Manzanillo, (Cuba).....	W. H. Blake.....	Consul.....	32 50	1st and 4th quarters not received.
Manzanillo, (Mexico).....	W. P. Atwell.....	.....do.....	.....	No report received.
Maracaibo.....	W. H. Evans.....	.....do.....	564 50	
Maranham.....	R. L. Hervey.....	Consular agent.....	54 85	
Marsala.....	M. F. Conway.....	Consul.....	3, 074 62	
Marseilles.....	L. Avery.....	Vice-commercial agent.....	2, 710 75	
Matamoras.....	H. C. Hall.....	Consul.....	5, 765 65	
Matanzas.....	W. Brooke.....	Consular agent.....	364 87	
Maulmain.....	J. C. Coxe.....	.....do.....	1, 165 07	
Mayaguez .....	J. Sisson.....	Commercial agent.....	1, 863 74	Do.
Mazatlan.....	J. Lombroso.....	Consular agent.....	.....	
Media.....	W. Blanchard.....	Consul.....	2, 943 84	
Melbourne.....	H. Fowler.....	Consular agent.....	.....	No fees received.
Memel.....	N. Viale.....	.....do.....	.....	Do.
Mentone.....	R. J. y Patullo.....	Consul.....	.....	No report received.
Merida and Sisal.....	F. W. Behn.....	Vice-consul.....	1, 274 35	
Messina.....	M. Otterbourg.....	Consul.....	633 72	
Mexico.....	W. G. Jones.....	Consular agent.....	.....	Do.
Mier.....	W. Clark.....	.....do.....	44 50	
Milan.....	A. B. Harries.....	.....do.....	.....	Do.
Milford Haven.....	F. D. Edwards.....	Commercial agent.....	42 40	1st, 3d, and 4th quarters not received.
Minatitlan.....	S. Rankin.....	.....do.....	.....	No report received.
Morales, (Mexico).....	C. W. Drury.....	Consular agent.....	.....	Do.
Monganui.....	A. Hanson.....	Com'r and consul general.....	.....	Do.
Monrovia.....	G. L. Phillips.....	Consular agent.....	58 13	
Montego Bay.....	H. Tuttle.....	Consul.....	2, 371 28	
Montevideo.....	J. Ulrich.....	.....do.....	.....	Do.
Monterey.....				

Report of fees collected, accounted for, and reported by the consular officers of the United States, &amp;c.—Continued.

Consular offices.	Consular officers.	Rank.	Fees, 1886.	Remarks.
Montreal.....	W. W. Averell.....	Counsel general.....	\$9,247 95	No report received.
Morlaix.....	M. Alexander.....	Consular agent.....	.....	Do.
Morpeth.....	.....	.....	.....	.....
Moscow.....	E. Fager.....	Consul.....	.....	.....
Mosel Bay, (Cape Town).....	Caleb Cook.....	Consular agent.....	.....	.....
Mozambique.....	Henry Toomy.....	.....	764 50	.....
Munich.....	H. Ralston.....	.....	336 44	.....
Napance, (Canada).....	G. Mitchell.....	.....	102 48	.....
Newcastle, (N. S. W.).....	W. P. Mangum.....	.....	542 53	3d and 4th quarters not received.
Nagasaki.....	W. Haddock.....	Consular agent.....	159 81	.....
Naguabo.....	George M. Towle.....	Consul.....	367 00	.....
Nantes.....	Frank Swan.....	.....	173 90	.....
Naples.....	J. W. McClure.....	.....	5 00	1st, 2d, and 3d quarters not received.
.....	W. W. Murphy.....	.....	891 50	.....
.....	T. Kirkpatrick.....	.....	2,784 47	No report received.
.....	J. H. McChesney.....	.....	.....	.....
.....	F. P. Knight.....	Vice-consul.....	48 70	Do.
.....	J. N. Knapp.....	Consular agent.....	.....	.....
Nice.....	A. O. Aldis.....	Consul.....	383 20	.....
Ningpo.....	E. C. Lord.....	.....	497 97	.....
Nottingham.....	F. G. Rawson.....	Consular agent.....	1,307 50	.....
Nuremberg.....	C. G. Wheeler.....	Consul.....	6,553 25	.....
Nuevitas.....	R. Gibbs.....	Consular agent.....	1,447 99	.....
Odesse.....	T. C. Smith.....	Consul.....	69 83	.....
Oldenburg.....	H. W. Carstens.....	Vice-consul.....	62 50	.....
Omoo and Truxillo.....	C. R. Follin.....	Consul.....	119 00	.....
Oporto.....	H. W. Diman.....	.....	237 50	.....
Oakland.....	A. Van Iseghem Ducloux.....	Consular agent.....	.....	Do.
Ostia.....	A. Gentile.....	.....	.....	Do.
Otranto.....	.....	Consul.....	.....	Do.
Ovar.....	J. A. D'Almeida.....	Consular agent.....	.....	Do.
Paco d'Arcos.....	F. F. Godinho.....	.....	.....	Do.
Padang.....	S. Higginson, Jr.....	Consul.....	.....	Do.

Palermo.....	L. Monti.....	.....do.....	2,407 17	
Palma, (Canary Islands).....	F. P. Laremuth.....	Consular agent.....	2 25	
Palma, (Majorca).....	J. Fiol.....	.....do.....	8 35	
Panama.....	W. B. Little.....	Consul.....	2,724 39	
Para.....	S. G. Pond.....	.....do.....	1,711 70	
Paraiba.....	.....	Consular agent.....	.....	Do.
Paramaribo.....	H. Sawyer.....	Consul.....	593 72	
Paris.....	John G. Nicolay.....	.....do.....	52,395 00	
Paso del Norte.....	Albert Juck.....	Vice-consul.....	59 00	
Pau.....	G. de M. Clay.....	Consular agent.....	.....	Do.
Patras.....	P. Fachiri.....	.....do.....	.....	Do.
Payta.....	R. M. Columbus.....	Consul.....	220 41	
Penang.....	G. Bain.....	Consular agent.....	89 41	
Pernambuco.....	T. Adamson.....	Consul.....	1,877 34	
Peso de Regra.....	.....	Consular agent.....	.....	Do.
Pesth.....	P. Giori.....	.....do.....	.....	Do.
Pictou.....	B. H. Norton.....	Consul.....	537 86	
Piræus.....	H. M. Canfield.....	.....do.....	35 00	
Plymouth.....	T. W. Fox.....	.....do.....	63 44	
Ponce.....	Peter Minoille.....	Consular agent.....	1,128 46	
Portgrund.....	.....	.....do.....	348 25	Reported by Consul Kraby.
Portsmouth.....	J. Garrett.....	.....do.....	.....	No report received.
Porto Alegre.....	F. J. Monteiro.....	.....do.....	.....	Do.
Port Baltic.....	C. Kalk.....	.....do.....	.....	Do.
Port Bruce.....	.....	.....do.....	.....	Do.
Port Burwell.....	.....	.....do.....	.....	Do.
Port Colbourne.....	.....	.....do.....	.....	Do.
Port Dover.....	.....	.....do.....	.....	Do.
Port Elizabeth.....	J. L. Flanders.....	.....do.....	312 68	
Port Hope.....	J. Albro.....	.....do.....	.....	Do.
Port Louis, (Mauritius).....	Nicolas Pike.....	Consul.....	.....	Do.
Port Mahon.....	H. B. Robinson.....	.....do.....	162 79	
Port Natal.....	G. C. Cato.....	Consular agent.....	.....	Do.
Port-au-Prince.....	H. B. Peck.....	Commissioner & consul gen'l.....	1,299 83	
Port Orotava.....	.....	Consular agent.....	.....	Do.
Port Rowan.....	.....	.....do.....	.....	Do.
Port Sarnia.....	A. W. Duggan.....	Consul.....	1,066 87	
Port Stanley, (Canada).....	J. Bostwick.....	Consular agent.....	.....	Do.
Port Stanley, (Faulkland Islands).....	W. H. Smyley.....	Commercial agent.....	.....	Do.
Port St. Mary.....	E. Crusoe.....	Consular agent.....	.....	Do.
Port of Sydney.....	J. P. Ward.....	.....do.....	.....	Do.

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

	Fees.	Remarks.
Prescott.....	\$610 00	No report received.
Prince Edward Island.....	2,526 41	1st, 2d, and 3d quarters not received.
Puerto Cabello.....	143 64	do.
Pugwash.....	1,067 63	No report received.
Punta Arenas, (Costa Rica).....	.....	Do.
Punta Arenas, (Nicaragua).....	.....	Do.
Quebec.....	915 61	Do.
Quibdo.....	.....	Do.
Queensland.....	.....	Do.
Ragged Landa.....	.....	Do.
Ramleh.....	.....	Do.
Rangoon.....	207 07	Do.
Ravenna.....	.....	Do.
Ragoa.....	.....	Do.
Retimo, (Isle of Crete).....	.....	Do.
Revel.....	.....	Do.
Rheims.....	.....	Do.
Rhenish Bavaria.....	390 75	Do.
Riga.....	.....	Do.
Ringkjöbing.....	.....	Do.
Rio de Janeiro.....	4,190 20	Do.
Rio Grande.....	562 48	Do.
Rio Hacha.....	.....	Do.
Rio Negro.....	.....	Do.
Ritzbüttel and Cuxhaven.....	.....	Do.
Rochefort.....	122 33	Do.
Rome.....	735 00	Do.
Roune.....	.....	Do.
Rosario.....	17 00	1st, 2d, and 4th quarters not received.
Rotterdam.....	2,037 33	No report.
Rouen.....	.....	Do.
Sabailla.....	455 29	Do.

Isle d'Obones.....	J. Y. Horner.....	Consular agent.....	9, 163 49	Do.
Isle de la Grande.....	J. A. Martins.....	do.....	455 40	No report received.
Salt Cay.....	W. H. Harrold.....	do.....	.....	Do.
Salt Cay.....	.....	Consul.....	.....	Do.
Salt Cay.....	.....	do.....	.....	Do.
San Blas.....	M. L. Hino.....	do.....	.....	Do.
San.....	C. M. V. Arango.....	Consular agent.....	.....	Do.
San.....	Engene Jalepie.....	do.....	635 50	3d and 4th quarters not received.
San.....	J. Stone.....	do.....	622 93	.....
San Juan del Norte.....	B. S. Cottrell.....	Commercial agent.....	324 61	.....
San Juan del Sur.....	E. P. Taft.....	do.....	971 64	No report received.
San Juan, (Porto Rico).....	A. Jourdan.....	Vice-consul.....	.....	Do.
San Luis Potosi.....	J. A. Piarnas.....	do.....	.....	Do.
Santa Cruz, Cuba.....	C. Hugor.....	Consular agent.....	562 90	.....
Santa Cruz, (West Indies).....	E. H. Perkins.....	Consul.....	318 91	.....
Santa Martha.....	F. D. Garcia.....	Commercial agent.....	.....	Do.
Santander.....	.....	Consul.....	55 90	.....
Santiago, (Cape Verde).....	W. H. Morse.....	do.....	1, 054 23	4th quarter not received.
Santiago de Cuba.....	E. F. Wallace.....	do.....	4 50	No report received.
Santos.....	C. F. de Vivaldi.....	do.....	45 37	No fees received.
Savanna la Mar.....	J. H. Isaacs.....	Consular agent.....	.....	No report received.
Schwerin.....	T. J. Bruxton.....	Vice-consul.....	.....	Do.
Silly Island.....	N. Petrocchino.....	Consular agent.....	.....	Do.
Scio.....	.....	Consul.....	308 50	Do.
Sedan.....	J. Cunningham.....	do.....	.....	Do.
Seville.....	C. F. O'Neil.....	Consular agent.....	.....	.....
Setubal.....	.....	do.....	.....	.....
Seychelles.....	C. Dupuy.....	do.....	.....	.....
Shanghai.....	George F. Seward.....	Consul general.....	4, 427 07	1st quarter not received.
Sheffield.....	George J. Abbott.....	Consul.....	6, 488 00	No report received.
Shelburne.....	.....	Consular agent.....	.....	No fees received.
Sidon.....	S. Abela.....	do.....	.....	No report received.
Sierra Leone.....	H. Bider.....	do.....	121 63	Reported by W. Graham.
Simonslow.....	J. P. de M. Falcao.....	do.....	.....	No report received.
Sines.....	I. Stone.....	Consul.....	828 31	.....
Singapore.....	J. Griffith.....	Vice-consul.....	924 31	.....
Smymna.....	S. Hirschbach.....	Consul.....	3, 568 50	1st quarter not received.
Sonneberg.....	I. Marthe.....	Consular agent.....	94 50	No report received.
Soussouate.....	J. Knight.....	do.....	.....	.....
Souris.....	.....	.....	.....	.....

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

Consular offices.	Consular officers.	Rank.	Fees, 1886.	Remarks.
Southampton .....	J. Britton.....	Consul .....	\$285 15	No report received.
Spezia .....	W. T. Rice .....	do .....	.....	
St. Andrew .....	G. Houlton .....	Consular agent .....	710 90	
St. Bartholomew .....	R. Burton Dine .....	.....	213 30	
St. Catharine's (Canada) .....	D. E. Haynes .....	.....	285 50	
St. Catherine's Island, (Brazil) .....	B. Lindsey .....	Consul .....	290 62	1st and 4th quarters not received.
St. Christopher .....	E. S. Delisle .....	Commercial agent .....	181 61	
St. Domingo, (city) .....	J. S. Smith .....	do .....	133 47	
St. George .....	A. Sprague .....	Consular agent .....	420 21	
St. Helena Island .....	G. Gerard .....	Consul .....	506 57	No report received.
St. Helen's .....	J. Hamill .....	Consular agent .....	.....	
St. John's, (C. E.) .....	L. P. Blodgett .....	Consul .....	1,922 42	
St. John's, (N. F.) .....	T. N. Mulloy .....	Vice-consul .....	913 07	
St. John, (N. B.) .....	J. Q. Howard .....	Consul .....	5,317 66	
St. Joao da Foz .....	S. J. Vesconcellos .....	Consular agent .....	.....	Do.
St. Malo .....	.....	do .....	.....	Do.
St. Marc .....	James M. Letts .....	Commercial agent .....	.....	Do.
St. Martin .....	C. Ray .....	Consul .....	113 80	Do.
St. Michael .....	T. Hickling .....	Consular agent .....	.....	Do.
St. Nazaire .....	.....	do .....	.....	Do.
St. Paul de Loando .....	A. A. Silva .....	Commercial agent .....	67 88	Do.
St. Pierre, Martinique .....	H. David .....	Vice-consul .....	.....	
St. Pierre, Miquelon .....	J. P. Frecker .....	Commercial agent .....	590 29	
St. Peteraburg .....	George Pomnitz .....	Consul .....	1,451 76	
St. Stephen .....	G. M. Porter .....	Consular agent .....	354 80	
St. Thomas .....	J. C. Walker .....	Consul .....	2,573 73	
St. Thomé .....	F. D. Asis Bolard .....	Commercial agent .....	.....	Do.
St. Valéry .....	.....	Consular agent .....	.....	Do.
St. Vincent .....	J. A. Martins .....	do .....	.....	Do.
Stanstead .....	.....	do .....	.....	Do.
Stavanger .....	T. Falk .....	do .....	.....	Do.
Stettin .....	C. J. Sundell .....	Consul .....	204 75	
Strasbourg, France .....	A. W. Frostadun, Jr. Edward Robinson .....	do .....	197 50 486 25	



Stuttgart .....	P. Klapprecht .....	do .....	3,403 50	No report received.
Sunderland .....	H. H. Brown .....	Consular agent .....	Do.	Do.
Sverdlov .....	H. H. Morice .....	do .....	975 91	No fees received.
Sydney .....	J. C. A. Wingate .....	Consul .....	70 13	1st, 2d, and 4th quarters not received.
Sydney, (New South Wales) .....	A. Radman .....	Consular agent .....	Do.	No report received.
Sydney, (Cape Breton) .....	R. D. Merrill .....	Consul .....	Do.	No fees received.
Sydney .....	T. D. Archibald .....	Consular agent .....	Do.	No fees received.
Sydney .....	N. Stelle .....	do .....	300 80	No report received.
Sydney .....	J. Vander .....	Commercial agent .....	435 11	First quarter not received.
Taliti .....	J. H. Trumbull .....	do .....	493 02	No report received.
Talcahuano .....	J. P. Finkelmaier .....	Commercial agent .....	66 86	First quarter not received.
Tamayo .....	F. Chase .....	Consul general .....	204 23	No report received.
Tampico .....	J. H. McMath .....	Consul .....	Do.	Do.
Tangier .....	C. Spaw .....	do .....	91 62	Do.
Taranto .....	A. Muller .....	Consular agent .....	Do.	Do.
Tarazona .....	A. Debbas .....	do .....	132 80	Do.
Tarusa .....	W. A. Dabney .....	Consul .....	9,396 62	1st and 3d quarters not received.
Tehuantepec .....	T. de Castro .....	Consular agent .....	86 14	No report received.
Tenerife .....	J. S. Levy .....	do .....	1,094 73	No fees received.
Tercera .....	J. Nreborg .....	Vice-consul .....	1,451 74	No report received.
Tetuan .....	S. W. Pomeroy, jr. ....	Consul .....	875 21	No fees received.
Thisted .....	D. Thurston .....	Consular agent .....	Do.	No report received.
Tien-Tsin .....	A. B. Schencking .....	do .....	Do.	No report received.
Toronto .....	O. Turbino .....	Consul .....	176 77	Do.
Toulon .....	A. W. Thayer .....	do .....	11,030 00	Do.
Toulon .....	F. F. Cavada .....	do .....	806 25	Do.
Toulon .....	Edward H. Pitt .....	Vice-consul .....	Do.	Do.
Toulon .....	W. Porter .....	Consul .....	Do.	Do.
Toulon .....	A. Yanni .....	Consular agent .....	Do.	Do.
Toulon .....	E. Prudot .....	do .....	Do.	Do.
Toulon .....	W. H. Weir .....	Consul .....	Do.	Do.
Toulon .....	H. R. Hawkins .....	do .....	Do.	Do.
Toulon .....	A. Perry .....	do .....	Do.	Do.
Toulon .....	T. Lewellyn .....	Consular agent .....	Do.	Do.
Toulon .....	E. Maynard .....	Consul .....	Do.	Do.
Toulon .....	Y. Akmed .....	Consular agent .....	Do.	Do.
Toulon .....	Y. Akmed .....	Consular agent .....	Do.	Do.

*Report of fees collected, accounted for, and reported by the consular officers of the United States, &c.—Continued.*

Consular offices.	Consular officers.	Rank.	Fees, 1866.	Remarks.
Valencia .....	J. B. Andrews .....	Consul .....	\$88 72	1st, 2d, and 3d quarters not received.
Valparaiso .....	A. W. Clark .....	do .....	2,521 28	
Velez Malaga .....	J. R. Geary .....	Consular agent .....		No report received.
Venice .....	Francis Colton .....	Consul .....	287 43	
Vera Cruz .....	M. D. L. Lane .....	do .....	2,136 68	
Verviers .....		do .....		Do.
Viana, Portugal .....	J. L. Affonco .....	Consular agent .....		Do.
Victoria, (Vancouver's Island) .....	A. Francis .....	Consul .....		Do.
Viegnes .....	Late Garben .....	Consular agent .....	82 70	
Vienna, (Austria) .....	C. H. Larkin .....	Vice-consul .....	1,398 50	
Vigo .....	M. Barcena .....	Consul .....		Do.
Villa do Conde .....	J. A. de Sousa .....	Consular agent .....		Do.
Villa Nova .....	M. de Guedes .....	do .....		Do.
Villa Real de San Antonio .....	M. G. Roldon .....	do .....		Do.
Waterford .....	R. P. Williams .....	do .....		Do.
West Caicos .....	S. Winter .....	do .....		Do.
Weymouth .....	W. Roberts .....	do .....		Do.
Wexford .....	J. W. Walsh .....	do .....		Do.
Whampoa .....	H. N. Blanchard .....	do .....		Do.
Windsor, (Nova Scotia) .....	P. S. Burnham .....	do .....		Do.
Windsor, (Canada) .....	A. L. Stevens .....	Consul .....	2,092 19	
Worcester .....	T. Southall .....	Consular agent .....	440 00	
Wyborg .....	J. Sparrow .....	do .....		Do.
Wyk on Föhr .....	L. Hayman .....	do .....		Do.
Yarmouth .....	L. S. Balkam .....	do .....		Do.
Zanzibar Island .....	E. D. Ropes .....	Consul .....	313 10	
Zacatecas .....		do .....		Do.
Zarte .....	A. S. York .....	do .....		Do.
Zaza .....	D. B. Iznaga .....	Consular agent .....		Do.
Zurich .....	Charles A. Page .....	Consul .....	3,486 25.	

CONSULAR FEES PRESCRIBED BY THE PRESIDENT OF THE UNITED STATES, IN ACCORDANCE WITH THE PROVISIONS OF THE ACT OF CONGRESS APPROVED AUGUST 18, 1856, REGULATING THE DIPLOMATIC AND CONSULAR SYSTEMS OF THE UNITED STATES.

CIRCULAR No. 49.

DEPARTMENT OF STATE.

Washington, March 26, 1864.

To the Consular Officers of the United States :

I transmit herewith, for your information and guidance, the revised rates or tariff of fees prescribed by the President, under the provisions of the sixteenth section of the act to regulate the diplomatic and consular systems of the United States, to be charged by all consular officers for the services "which shall be regarded as official services." The fees therefor "are to be collected in the coin of the United States, or at its representative value in exchange." The rates established by this tariff are intended to supersede those which were heretofore prescribed, and are to be carefully observed, in all cases, by consular officers.

At the expiration of each quarter, all fees collected by all *salaried* consular officers residing at seaports must be accounted for to the Secretary of the Treasury, pursuant to Forms Nos. 33, 44, and 45; and by those residing at inland places, agreeably to Forms Nos. 9 and 33, and the respective amounts held subject to his draft or "other directions." Similar reports must be made quarterly to this department by all *unsalaried* consular officers. To enable this department to comply with the provisions of the sixteenth section of the diplomatic and consular act, a report must be made, pursuant to Form No. 138, to this department by all consular officers.

Consuls are further instructed that the rates for consular services, in pursuance of the revised tariff, are to be charged from and after the thirtieth of June next.

WILLIAM H. SEWARD.

Approved :

A. LINCOLN,

March 28, 1864.

CONSULAR FEES.

*Acknowledgments.*

1. Of the master to bottomry bond with certificate under seal.....	\$2 50
2. Of the master to a mortgage or mortgage bill of sale of vessel .....	2 00
3. Of the master to an order for payment of seamen's wages or voyages, at home, including making up the order, if required .....	2 50
4. Of the merchant to assignment of bottomry bond.....	2 00
5. Of the vendor to a bill of sale of vessel.....	2 00
6. Of one or more persons to a deed or instrument of writing.....	2 00
7. Of one or more persons to a power of attorney.....	2 00

*Authenticating copies of papers.*

8. Of advertisement for funds on bottomry .....	1 00
9. Of inventories and letters, or either, of masters.....	1 00
10. Of marine note of protest .....	2 00
11. Of extended protest .....	3 00
12. Of account of sales of vessel, cargo, provisions, and stores, or either.....	1 00
13. Of advertisement of sale of vessel or cargo, provisions, or stores .....	1 00
14. Of call, warrant, and report of survey on vessel, hatches, cargo, provisions, and stores, or either, (for example, see Form No. 50.).....	1 00

*Authenticating signatures.*

15. To average bonds.....	2 00
16. To estimate of repairs of vessel.....	2 00
17. To (auctioneer's) account of sales of vessel or cargo, provisions, or stores.....	2 00
18. To reports of survey on vessel or cargo, provisions, or stores.....	2 00
19. Of forms of application for arrears of pay and bounty of deceased or disabled soldiers.....	25
20. Of governors, judges, notaries public, custom-house, and other officers.....	2 00
21. Of merchants and individuals .....	2 00
22. For any other consular authentication or service of like character not herein named or enumerated .....	2 00

*Certificates.*

23. To bill of health.....	\$2 50
24. Of indorsement of bottomry on ship's register.....	2 00
25. Of indorsement on payment of bottomry on ship's register.....	2 00
26. Of indorsement of new ownership on ship's register.....	2 00
27. Of cancelling ship's register.....	2 00
28. To currency.....	1 00
29. Debenture certificate, including oaths of master and mate.....	5 00
30. Of decision and award, in cases of protests against masters, passengers, or crew, (for example, see Form No. 49).....	5 00
31. Of the deposit of a ship's register and papers, when required by custom-house authorities.....	2 00
32. In cases of vessels deviating from the voyage.....	2 00
33. When ship's register is retained <i>entire</i> in the consulate.....	2 00
34. Of identity.....	2 00
35. To invoice, including declaration, in triplicate.....	2 50
36. To invoice of goods, not exceeding \$100 in value, in British North American provinces.....	1 00
37. When the amount of the invoice exceeds \$100.....	2 50
38. Of place of growth or production of goods made duty free by the reciprocity treaty, exceeding in value the sum of \$200, to be charged by consular officers in British North American provinces.....	1 00
39. Same of goods not exceeding in value the sum of \$200.....	No fee.
40. Of place of birth of emigrants, and only when desired by them.....	25
41. For marriage certificate under the provisions of the thirty-second section of the consular judicial act of June 22, 1860.....	1 00
42. Of appointment of new master, including oath of master.....	2 00
43. Given to a master at his own request, (for example, see Form No. 48,) if less than two hundred words, under seal.....	2 00
44. For every additional hundred words.....	1 00
45. Of the ownership of a vessel.....	2 00
46. To a seaman, of his discharge.....	No fee.
47. For master to take home destitute American seamen.....	No fee.
48. Of conduct of crew on board, in cases of refusal of duty and in cases of imprisonment, &c.....	2 00
49. Of sea letter.....	3 00
50. Of roll or list of crew, when required by the captain or authorities of the port.....	2 00
51. To shipping articles.....	2 00

*Declarations and oaths.*

52. Declaration and oath of master to one or more desertions, including oaths, attached to crew list and shipping articles, each.....	50
53. To one or more deaths or losses of seamen overboard at sea, including oaths, attached to crew list and shipping articles, each.....	50
54. To not being able to procure two-thirds of a crew of American seamen.....	50
55. To ship's inventories or stores.....	50
56. To the correctness of log-book.....	50
57. To ship's bills and vouchers for disbursements and repairs.....	50

*Estates of deceased American citizens.*

58. For taking into possession the personal estate of any citizen who shall die within the limits of a consulate, inventorying, selling, and finally settling and preparing or transmitting, according to law, the balance due thereon, five per cent. on the gross amount of such estate. If part of such estate shall be delivered over before final settlement, two and one-half per cent. to be charged on the part so delivered over as is not in money, and five per cent. on the gross amount of the residue. If among the effects of the deceased are found certificates of foreign stocks, loans, or other property, two and one-half per cent. on the amount thereof. No charge will be made for placing the official seal upon the personal property or effects of such deceased citizen, or for breaking or removing the seals when required by the person or persons referred to in section 29 of the act of August 18, 1856.

*Filing documents in consulate.*

59. Consul's certificate to advertisement for funds on bottomry.....	25
60. Inventories of vessels, cargo, provisions, and stores, or either.....	25
61. Estimate of repairs of vessel.....	25

## DIPLOMATIC AND CONSULAR SYSTEMS.

21

62. To advertisement of sale of vessel, cargo, provisions, and stores, or either ....	\$0 25
63. Letter of master notifying consul of sale of vessel, cargo, provisions, and stores, or either .....	25
64. Of master notifying auctioneer of sale of vessel, cargo, provisions, and stores, or either .....	25
65. Accounts of sale of vessel, cargo, provisions, and stores, or either .....	25
66. Calls of survey on vessel, hatches, cargoes, provisions, and stores, or either ..	25
67. Warrants of survey on vessels, hatches, cargoes, provisions, and stores, or either.	25
68. Reports of survey on vessels, hatches, cargoes, provisions, and stores, or either.	25
69. For filing any other document prepared in or out of the consulate.....	25

### *Consuls' orders and letters.*

70. To send seamen to hospital .....	No fee.
71. To send seamen to prison.....	2 00
72. To release seamen from prison.....	2 00
73. To authorities or captain of the port in cases of sinking vessels, (for example, see form No. 51).....	2 00
74. Requesting the arrest of seamen.....	2 00
75. For any other letter or order of like character .....	2 00

### *Licenses.*

76. For the issue of a license to a vessel clearing from a foreign port and destined to a port of the United States opened by the proclamation of the President..	5 00
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### *Passports.*

77. For a passport, including seal.....	5 00
78. For visaing a passport .....	1 00

### *Protests, &c.*

79. For noting marine protest.....	2 00
80. For extending marine protest .....	3 00
81. And if it exceed two hundred words, for every additional one hundred words .	1 00
82. For issuing warrant of survey on vessels, hatches, cargo, provisions, and stores, or either .....	2 00
83. Notifying surveyors of their appointment, for each .....	1 00
Notifying agents of insurance companies interested, each .....	1 00

### *Preparing documents.*

84. For preparing agreement of master to give increased wages to seamen, attested under seal .....	2 00
85. For preparing any other official document or instrument of writing, not herein named or enumerated, if under one hundred words.....	2 00
86. If exceeding one hundred words, for every additional hundred words.....	1 00

### *Recording documents.*

87. Appointment of new master.....	50
88. Application of a citizen of the United States for a sea letter.....	50
89. Average bonds, when required, for every one hundred words.....	50
90. Bill of sale, when required, for every one hundred words.....	50
91. Certificate given to master at his own request, when required .....	50
92. Consul's letter to captain of port, or authorities, in cases of sinking vessels....	50
93. Order and consul's certificate to pay seamen's wages or voyages, at home ....	50
94. Powers of attorney, when required, for every one hundred words.....	50
95. Protests of masters and others, other than marine protests, for every one hundred words .....	50
96. Sea letter, for every one hundred words.....	50
97. Calls of survey on vessel, hatches, cargo, provisions, and stores, or either; warrants and reports of ditto, ditto; estimates of repairs; certificates of consuls to advertisements for funds on bottomry, and of sale of vessel; inventories of vessel, cargo, provisions, and stores; letter of master to consul notifying sale of vessel, cargo, provisions, and stores, or either; letter of master to auctioneer, and account of sales of vessel, cargo, provisions, and stores, or either, for every one hundred words of any document required to be recorded, except consul's certificate to masters taking home American seamen .....	50
98. Any other document or instrument of writing not herein named or enumerated prepared in or out of the consulate, and required to be recorded, for every one hundred words .....	50

*Receiving and delivering ship's papers.*

99. For receiving and delivering ship's register and papers, including consular certificates as prescribed in Forms Nos. 38 and 39, one cent on every ton, registered measurement of the vessel for which the service is performed, if under one thousand tons ..... \$0 01 ½
100. And for every additional ton over one thousand, one-half of one cent.....

*Shipping or discharging seamen.*

101. For every seaman who may be discharged or shipped, including the certificates therefor attached to crew list and shipping articles, to be paid by the master of the vessel..... 50

*Miscellaneous services.*

102. For administering oaths, not hereinbefore provided for, each..... 0 50
103. For attending an appraisement of goods or effects, daily..... 5 00
104. For attending valuation of goods, for every day's attendance during which the valuation continues..... 5 00
105. For attending sale of goods, for every day's attendance during which the sale continues..... 5 00
106. For attending sale of vessel, when required ..... 5 00
107. For attendance at a shipwreck, or for the purpose of assisting a ship in distress, or of saving wrecked goods or property, over and above travelling expenses, a per diem of five dollars, whenever the consul's interposition is required by the parties interested..... 5 00
108. For consul's seal and signature to clearance from custom-house authorities... 2 00
109. For consul's seal and signature to any document not mentioned in or otherwise provided for by the foregoing tariff..... 2 00

Under the provisions of the sixteenth section of the diplomatic and consular act, the President has prescribed that all acts are to "be regarded as official services" when the consul uses his seal and title officially, or either of them; and the fees received therefor by salaried consuls are to be accounted for to the treasury of the United States.

Where a fee is fixed in the foregoing tariff for any particular act or transaction, no additional fee is to be demanded for signature, attestation, or annexing seal of office.

All consular fees are to be collected, as prescribed by law, "in the coin of the United States, or at its representative value in exchange."

By order of the President:

WILLIAM H. SEWARD,  
Secretary of State.







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# LETTER

FROM

# THE SECRETARY OF STATE,

IN REPLY TO

*Resolution of December 20, 1867, asking information in relation to the amounts paid for publishing United States laws and for counsel fees since March 4, 1861.*

JANUARY 9, 1868.—Read, laid on the table, and ordered to be printed.

DEPARTMENT OF STATE,

Washington, January 6, 1868.

SIR: In reply to the resolution of the Senate directing me to inform the Senate what is the amount of money paid for publishing the laws of the United States in the newspapers appointed for that purpose, since the 4th of March, 1861, I have the honor to report as follows: in 1861, \$17,280; in 1862, \$20,200 45; in 1863, \$31,135 24; in 1864, \$27,583 20; in 1865, \$32,623 88; in 1866, \$18,322 13; in 1867, \$57,630, thus far. The average for the years preceding 1867, it will be seen, is \$24,524.

It is to be noted that in 1865 all the laws and treaties which had been passed and concluded since 1861 were for the first time published in the States which had been in rebellion. It is to be observed, in the second place, that the laws and treaties for the year 1867 were published in conformity to the two several acts of Congress which modified the rates and manner of publication, namely, the act "making appropriations for sundry civil expenses of the government for the year ending June 30, 1868," approved March 2, 1867; and, second, the act "making appropriations to supply deficiencies," &c, approved March 29, 1867.

Under these acts it has been found necessary to increase the estimate of appropriation for publishing the laws for the year ending June 30, 1869, from \$25,000—the estimate of the preceding fiscal year—to \$100,000. (See Report of Secretary of Treasury, Executive Document No. 3, page 21, 2d session 40th Congress.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. BENJAMIN F. WADE,

*President of the Senate.*

DEPARTMENT OF STATE,

Washington, January 6, 1867.

SIR: In compliance with a resolution of the Senate, I have the honor to report the amount of counsel fees paid by this department or its order since March 4, 1861, as follows:

To Edwards Pierrepont, counsel in the Surratt case, \$5,000.

To A. G. Riddle, in the same case, \$3,000.

## 2 AMOUNTS PAID FOR PUBLISHING UNITED STATES LAWS, ETC.

To H. H. Emmons \$1,000, and to B. Devlin \$10,000, in the matter of the extradition of prisoners, the St. Albans raiders, &c.

To the governor of Vermont \$11,710 37, in the matter of the St. Albans raiders, including other expenses in the case.

All of the above sums were charged to the appropriation for "bringing home prisoners from foreign countries."

To Brady & Traphogan \$1,500, in the case of Jones against the Secretary of State for false imprisonment, which was charged to the appropriation for expenses under the *habeas corpus* act.

To H. H. Emmons \$3,052 04, for services in extradition cases, &c., in the British provinces. There has also been allowed to William B. West, United

States consul at Dublin, \$1,500, in defence of Fenians, for counsel's fees, &c. Both of these amounts were charged to the appropriation for expenses under the neutrality act.

To William M. Evarts \$6,010 86, for services and expenses in England.

To William C. Johnson \$1,000, in the matter of the Hudson's Bay Company.

There has also been allowed to F. H. Morse, United States consul at London, \$666 17, for amount paid in England in the case of Ferguson & McKae; and to Thomas H. Dudley, United States consul at Liverpool, \$23,774 47, in various cases, including the Alexandria, Prioleau, rebel rams, &c., which have been charged to the appropriation for contingent expenses of foreign intercourse.

It is proper to observe that most of the foregoing amounts include attorneys' fees and other expenses, aside from counsel fees proper, which it is impossible to discriminate in this report.

In reply to the inquiry whether this department has paid for reporting any trials, I have the honor to inform you that there has been paid to F. H. Smith, for reporting the Surratt trial, \$2,250, which was charged to the appropriation for "bringing home prisoners from foreign countries." To Warburton, Underhill & Hayes \$684 75, for reporting the Meteor case, at the request of Judge Betts, in the United States district court in New York.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. BENJAMIN F. WADE,

*President of the Senate.*

## M E S S A G E

FROM THE

# PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A report from the Secretary of the Treasury, in answer to resolution of the 16th ultimo, relative to the amount of United States bonds issued to the Union Pacific Railroad Company's branches.*

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JANUARY 9, 1868.—Read, referred to the Committee on the Pacific Railroad, and ordered to be printed.

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*To the Senate of the United States :*

I herewith transmit to the Senate a report from the Secretary of the Treasury, containing the information requested in their resolution of the 16th ultimo, relative to the amount of United States bonds issued to the Union Pacific Railroad Company and each of its branches, including the Central Pacific Railroad Company of California.

ANDREW JOHNSON.

WASHINGTON, *January 6, 1868.*

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TREASURY DEPARTMENT,  
*December 19, 1867.*

SIR : I have the honor to acknowledge the reference to this department for report of Senate resolution of the 16th instant, "respectfully requesting the President to furnish the Senate a statement setting forth the amount of United States bonds issued to the Union Pacific Railroad Company, and each of the branches thereof, including the Central Pacific Railroad Company of California, and an account of the interest paid by the government upon such bonds, and of the interest repaid by said several railroad companies to the United States; whether in cash or in the transmission of despatches, stores, and supplies as provided in the Pacific railroad act of 1862."

Herewith I transmit a statement marked A, from the Register of the Treasury, showing the amount of bonds issued to the Union Pacific Railroad Company and its branches, including the Central Pacific Railroad Company, with the amount of interest paid to each company; also statement from the same office, marked B, exhibiting the amounts paid into the treasury by said companies; and statement, marked C, showing the source from whence said repayments were derived.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

The PRESIDENT of the United States

A.

Statement showing the amount of United States registered bonds issued to the Union Pacific Railroad Company and its branches, including the Central Pacific Railroad Company, with the amount of interest paid each company.

Name of company.	Amount of bonds.	Amount of interest.
Union Pacific railroad.....	\$8, 160, 000	\$265, 530 26
Union Pacific railway, E. D.....	4, 880, 000	133, 285 22
Atchison and Pike's Peak railroad.....	640, 000	29, 299 74
Western Pacific railroad.....	320, 000	8, 206 03
Central Branch Union Pacific railroad.....	640, 000	3, 208 75
Central Pacific railroad.....	6, 074, 000	424, 337 87
	20, 714, 000	853, 867 87

The above is the amount of interest paid to July 1, 1867, and \$70,860 paid to Central Pacific Railroad Company on July 16, 1867.

N. L. JEFFRIES,  
Acting Register.

TREASURY DEPARTMENT, REGISTER'S OFFICE,  
December 17, 1867.

B.

Statement showing the amounts received and covered into the treasury, from the Union Pacific Railroad Company, the Central Pacific Railroad Company, and the Union Pacific Railway Company, (eastern division,) under the 5th section of the act of July 2, 1864.

From Union Pacific Railroad Company :	
For transportation performed for various departments to August 5, 1867.....	\$249, 182 83
From Central Pacific Railroad Company :	
For transporting mails, &c., to June 30, 1867.....	29, 899 07
From Union Pacific Railway Company, (eastern division:)	
For transportation performed for various departments to September 30, 1867.....	87, 946 42

N. L. JEFFRIES,  
Acting Register.

TREASURY DEPARTMENT, REGISTER'S OFFICE,  
December 18, 1867.

C.

Statement showing the sources from whence the various repayments were derived on account of moneys received from the Union Pacific Railroad Company and its branches, up to December 18, 1867.

Union Pacific Railroad Company :	
Army transportation.....	\$248, 850 53
Transportation of Indians.....	332 30
	249, 182 83

UNION PACIFIC RAILROAD COMPANY'S BRANCHES.

3

Union Pacific Railroad Company, (eastern division :)		
Army transportation .....	\$74,049 37	
Transportation of mails .....	13,897 05	
	<hr/>	\$87,946 42
Central Pacific Railroad Company :		
Transportation of mails .....		29,899 07
		<hr/>
		367,028 32
		<hr/> <hr/>

H. McCULLOCH,

Secretary of the Treasury

TREASURY DEPARTMENT, *December* 19, 1867.





## LETTER

FROM

# THE ATTORNEY GENERAL,

IN REPLY TO

*A resolution of the 8th instant, transmitting copies of official opinions given by him relative to the pay of retired and reserved officers of the navy.*

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JANUARY 11, 1868.—Read and ordered to lie on the table and be printed.

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ATTORNEY GENERAL'S OFFICE,  
Washington, January 11, 1868.

SIR: In accordance with a resolution of the Senate of the United States, adopted January 8, 1868, I have the honor to transmit herewith copies of the opinions officially given by me in relation to the pay of retired and reserved officers of the navy.

With high respect, your obedient servant,

HENRY STANBERY,  
Attorney General.

HON. B. F. WADE,  
President of the Senate pro tempore.

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ATTORNEY GENERAL'S OFFICE,  
May 18, 1867.

SIR: By your letters of the 6th of December, 1866, and 21st of March last, I am requested to give an opinion respecting the rate of pay to which officers are entitled who have been promoted on the retired list of the navy, or retired upon furlough pay.

I find that on the 16th of July, 1862, laws were in force authorizing the promotion of officers on the reserved or retired list, but with the condition annexed that such promotion should not enhance the pay. Thus, up to that date, the pay and rank of officers on said list were separate things. On that day the act took effect, entitled "An act to establish and equalize the grade of line officers of the United States navy," of which section 20 (12 Stat. at Large, 587) provides "that the annual pay of retired naval officers shall be as follows, viz: admirals, two thousand dollars; commodores, eighteen hundred dollars; captains, sixteen hundred dollars," &c., &c., embracing the several grades down to and including ensigns, so that by this section the rank and pay of a retired officer become correlative. Every officer must have a definite rank, and as soon as that is ascertained, if he is a retired officer, this section constitutes his pay-

roll, whether he attained that rank by promotion or otherwise. If an officer's promotion was conditional upon his not receiving enhanced pay, and this law would give him more pay, either the promotion is rescinded or the condition is repealed. Without doubt, the latter, and not the former, is the legal effect of the section cited, where the promotion had vested anterior to its passage. Promotions made subsequently present another question. If lawfully made, there can be no question that the rank bestowed actually bestowed the pay of that rank, because the law says so. But does the law—section 20 of the act of 16th July, 1862, fixing the pay of retired naval officers, or any other law—repeal so much of previous laws as authorizes promotion on the retired list? I think not. Congress may authorize promotions on the retired list with or without enhancement of pay. If at first without, they may afterwards make it *with* the pay. If a law passes giving *all* who hold a certain rank a certain pay, and some of that certain rank previously had less pay than others, such a law would have the authority for promoting where it found it, but would repeal the condition that the promotion should not work an enhancement of pay by ordaining that the pay should in all cases follow the rank. And the same view applies where the retired officer, having a definite rank, was under any other restriction as to his pay.

It is, therefore, my opinion that the act of 16th July, 1862, made no change in the manner of fixing and ascertaining the rank of any retired naval officers, but changed the rate of paying some of them by providing that in every case of equal rank there should be equal pay, the amount of which is set forth in the law.

I have the honor to be, very respectfully,

HENRY STANBERY,  
*Attorney General.*

Hon. GIDEON WELLES,  
*Secretary of the Navy.*

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ATTORNEY GENERAL'S OFFICE,  
October 31, 1867.

SIR: I have had under consideration your letter of the 13th ultimo, in which you call my attention again to certain questions as to the pay of officers on the retired list of the navy. I gave you my opinion upon these questions on the 18th of May, 1867. On the 25th of July, you requested a review of the opinion so given, and, in my absence, your request was complied with by the acting Attorney General in an opinion furnished on the 1st of August, 1867. You now ask me to review the whole subject, and to give you a "decided opinion."

In conformity with your request, I have again carefully gone over all the statutes, and reconsidered the entire subject, and the result is, that I see no cause to change the opinion which was given you on the 18th of May. Without detaining you by a recital of the various acts of Congress upon this subject, and without again going over the grounds stated in the former opinion, I will confine myself to a few additional observations. Prior to the act of 1861, the pay of retired officers was leave of absence pay, or furlough pay, according to circumstances. There is no question that the provision as to leave of absence pay, though not expressly repealed or referred to in the act of 1861, was yet necessarily superseded by the provisions of that act. The same would have been the consequence as to furlough pay, but for the particular clause in the act of 1861 continuing it in certain cases. But now, by the act of 1862, a new and uniform rule for the pay of retired officers is adopted, which supersedes

furlough pay just as effectually as the act of 1861 superseded leave of absence pay. It is a new provision upon the subject of pay, without any exception or limitation, and covers all the cases to which it applies.

The reference you make to another opinion from this office in regard to repeals by implication, and in which such repeal is held not to take effect, has no application to this question. *That* involved the construction of an act of special character determining the pay of a particular officer, with an act of general character fixing the pay of certain grades of officers. In that case there was no difficulty of holding, although the rates of pay were different, that yet there was no inconsistency between the two acts, and no repeal by implication. But the acts now under consideration are all *in pari materia*, regulating the same subjects. One rate of pay, called furlough pay, is provided in one act for one class of retired officers, and an entirely different rate of pay was fixed by a subsequent act for various classes of retired officers. So far, therefore, as the class of retired officers put by the prior act upon the footing of furlough pay are embraced within the classes provided for in the act of 1862, they are to receive pay according to the act of 1862, and not furlough pay according to the prior act. As to officers of other grades or classes than those designated in the act of 1862, their pay is still left under the regulation of the former law.

I beg to refer you, in this connection, to an opinion given to you by one of my predecessors, Mr. Bates, on the 5th of September, 1862. After reciting the 22d section of the act of July 16, 1862, Mr. Bates says: "This section is general in its terms, and, consequently, general in its operation, and conforms to the gradations of rank established in the navy by the 1st section, embracing all the officers named except midshipmen. In my opinion, it fixes the rate of pay for all the retired officers of the navy it enumerates according to the rank at the time it became a law. It, in effect, repeals the prohibition referred to in the 4th section of the act of 16th January, 1857, by giving to officers who have been promoted on the retired list, prior to its passage, the pay of the rank they held at the time of its passage."

Now, although Mr. Bates makes no reference to furlough pay in this opinion, yet what he says necessarily excludes the idea of any other pay for retired officers designated in the section than that which is therein fixed for the respective grades. His language is: "it fixes the rate of pay for all the retired officers of the navy it enumerates." The clear meaning is, that if the pay of any one of these officers had been furlough pay, such officer must receive, in lieu of furlough pay, the rate of pay fixed for his grade by this statute. Take, now, the case of a captain on the retired list. Prior to the act of 1862 he received furlough pay, but the act of 1862, fixing the annual pay of retired naval officers, gives to captains on the retired list annual pay of sixteen hundred dollars. It makes no discrimination between such captains as theretofore stood on furlough pay or upon leave of absence pay, or upon any other rate of pay fixed by prior laws. And where the law has made no exception, you cannot, by construction, properly make an exception. Both these provisions, as to a retired captain who has been upon furlough pay, cannot have effect. They are wholly inconsistent, and the consequence is, that the last provision takes the place of the former, and furnishes the only rule for the pay of the captain.

You say that you can perceive no more repugnance between the 20th section of the act of July 16, 1862, and the 23d section of the act of August 3, 1861, than between the 22d and 23d sections of the act of August 3, 1861. The rule of construction which is applicable to these two sections of the act of 1861 is very clear. Take the case of a captain as an illustration. By the 22d section a captain's pay is to be \$1,300, but by the 23d section, a captain retired under its provisions is to receive furlough pay. In construing these two sections, we must give effect to both; for here the legislature, establishing a captain's pay at \$1,300, specially excepts the case of a captain retired on furlough pay, and

gives him furlough pay instead of the fixed rate of \$1,300, which is to apply to all other captains.

But when we come to construe the act of 1862, we find a new rate of pay established for certain retired naval officers, and which gives to captains \$1,600, and further provides that no rations shall be allowed to any officers of the navy on the retired list. This is a new enactment on the subject-matter of the pay of retired naval officers. It changes the rate of pay of the officers enumerated as established in the act of 1861. It covers the whole subject of the pay of the officers enumerated, and of rations, and makes no exception or provision as to furlough pay in reference to these enumerated grades. This act of 1862 ignores furlough pay precisely as the act of 1861 ignores leave of absence pay, as to the officers enumerated in that act. It is true there is no express repeal of furlough pay as to these enumerated officers, nor was there any such express repeal of leave-of-absence pay in the act of 1861.

The same thing may be said, generally, of various acts in reference to retired naval officers, that the subsequent acts, which make important changes, do not, in general, contain any express repeals of former provisions.

You further suggest that, if the act of July 16, 1862, repeals the provision as to furlough pay, it must also repeal the rate of pay given to retired officers, as fixed by the 5th section of the act of June 1, 1860, when called to perform active duty. I see no repugnancy whatever between the act of 1860 and that of 1862, as to pay when in active service. The language of the act of 1860 is as follows: "And officers on the reserved list, when called into active service, shall receive the pay of their respective grades as herein provided during the term of such service." Now the act of 1862 provides pay simply for certain retired officers. It fixes the rule for retired pay. It does not touch, or purport to touch, the additional pay given to a retired officer called into active service, but leaves that additional compensation for that additional duty to stand upon the former law. One is a provision for the officer in retirement, the other an additional provision for the officer when in active service. For the time being, a retired officer called into active service is taken out of retirement, and the compensation fixed for the retired list would be no proper compensation for him while in active service, and consequently the statutes must be understood as making a special distinction between such cases.

I see no sort of inconsistency between these acts. They may both very well stand together, and that being the case, there is no necessity to resort to the doctrine of implied repeal. They relate to two different subjects-matter. One fixes the pay of a retired officer when called into active service, and the other fixes the pay of a retired officer when not in active service.

The case of Commodore McCauley. A question, distinct in some respects from those which have been above considered, arises in the case of Commodore McCauley. The facts in his case are thus stated in your letter of August 17: "Commodore McCauley, while holding the rank of captain, was retired December 21, 1861, by the operation of the law of that date, at which date the pay of a captain on the retired list, not retired on furlough pay, was his leave-of-absence pay of \$3,000 per annum. Subsequently the pay of a captain on the retired list was reduced by the act of July 16, 1862, to \$1,600 per annum. Commodore McCauley was promoted to his present grade on the retired list March 12, 1867, in conformity with the 9th section of the act of March 2, 1867, which provides 'that officers on the retired and reserved lists of the navy shall be entitled to promotion as their several dates upon the active list are promoted; but such promotion shall not entitle them to any pay beyond that to which they were entitled when retired, unless upon active duty, when they shall receive the full pay of their respective grades.'"

The question you submit for my consideration is, whether Commodore McCauley is now entitled to \$3,000 per annum or \$1,600 per annum. The larger

sum is the rate to which he was entitled at the time he was retired; the lesser sum is the rate of pay fixed for retired officers by the law of July 16, 1862.

I have no doubt that Commodore McCauley is not entitled to the leave-of-absence pay of \$3,000, which was the rate to which he was entitled at the time he was retired; for, as you say, whilst he was upon the retired list, his rate of pay was changed by the act of 1862 to the lower sum of \$1,600. You will observe that the act of March 2, 1867, does not provide affirmatively that when a retired officer is promoted, he shall receive the original rate of pay to which he was entitled at the time he was retired, but only that by his promotion he shall not be entitled to any additional pay beyond that original pay. It fixes the rate of retired pay as a maximum, but does not give it as a new rate of pay to which he becomes entitled upon his promotion. A construction of this act which would remit Commodore McCauley to his original retired pay of \$3,000, would give him, as commodore on the retired list, a higher rate of compensation than is given to a retired admiral, which could never have been the intention of Congress. Again, such construction, when applied to a retired officer who was a lieutenant at the date of his retirement, and afterwards, by promotion and by the operation of the act of 1862, became entitled to a higher rate of compensation, would, upon promotion, under the act of 1867, remit him to a lower rate of pay than that which he enjoyed at the time of his last promotion. It cannot be contended that Congress meant that promotion should work such consequences, and nothing but the most explicit language would warrant a construction leading to such consequences.

But whilst I am of opinion that Commodore McCauley was not entitled to his original retired pay of \$3,000, I am very far from reaching the conclusion that his pay as commodore is to remain at \$1,600. On the contrary, I am of opinion that upon his promotion he becomes entitled to the pay as commodore fixed by the act of 1862, that is to say, to \$1,800. I think this is very clear from the legislation of Congress upon the promotion and pay of retired officers. The first provision cut retired officers entirely off from promotion. The next act provides that these retired officers might be promoted by and with the advice and consent of the Senate, and that such promotion should not entitle them to any additional pay. Next, by the act of 1862 as it has been construed by my predecessor, Mr. Bates, and by myself, the pay as fixed for retired officers was wholly unaffected by the prior prohibition as to additional pay upon promotion. In other words, one holding the grade of captain on the retired list at the time by promotion, although originally retired with the grade of lieutenant, became entitled to captain's pay just as fully as if he had been retired with the grade of captain. If, therefore, Commodore McCauley, having been retired as a captain in 1861, had been promoted to the rank of commodore before the act of 1862, he would have been entitled to pay as commodore under the provisions of that act.

Now, by the act of 1867, there is a new provision as to promotion on the retired list by which retired officers are "entitled to promotion as their several dates upon the active list are promoted," but such promotion shall not entitle them to additional pay beyond their pay "when retired." This, in effect, supersedes the prohibition as to promotion contained in the prior law, and contemplates that additional pay may be a consequence of promotion. Now, as we find by the act of 1862 the pay of all commodores on the retired list is fixed at \$1,800, I see no reason why Commodore McCauley is not entitled to that rate of pay, now being a commodore.

Although, in the opinions heretofore given and above referred to, the question of additional pay consequent upon promotion was confined to the officers on the retired list promoted prior to the act of July 16, 1862, I can now see no reason, especially since the act of March 2, 1867, why the act does not equally apply to officers promoted since the act of 1862. There is nothing in the language of the act of 1862 which confines its operation to the officers then on the retired



list. The provision as to rank is precisely in the same language as the provision as to pay, and that fixes the relative rank between the officers of the navy and the army on the retired list the same as on the active list. There can be no question that Commodore McCauley, in reference to this relative rank, is now to rank as a commodore, although he has been promoted since the act of 1862. For the same reason he is now entitled to the pay of commodore; for, as I have said, by the operation of the act of 1867, the absolute prohibition against an increase of pay upon promotion is in effect repealed, if it were not in fact repealed for all purposes by the act of 1862. My conclusion, therefore, is, that Commodore McCauley is now entitled to the pay fixed for commodore on the retired list—that is to say, to \$1,800 per annum.

The case of Commodore McCauley does not require me to give a construction of the phrase “when retired,” as used in the act of 1867. A case may arise in which an officer now on the retired list has, by promotion, become entitled to a rate of pay greater than the rate of pay which belonged to his original grade at the date of retirement. It may happen that such an officer may again be promoted to a still higher grade, and the question would then arise whether he should receive the pay fixed for his new grade, the same being in excess of his original pay at the time of retirement. It is not proper at this time to express any opinion upon that question. All that is necessary to be said is that nothing in this opinion is to be understood as applicable to that question.

I have the honor to be, with great respect,

HENRY STANBERY,  
*Attorney General.*

Hon. GIDEON WELLES,  
*Secretary of the Navy.*







## MESSAGE

FROM THE

# PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*A report from the Secretary of State in answer to resolution of the 13th instant, calling for information relative to the appointment of the American minister at Peking to a mission in behalf of the Chinese government.*

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JANUARY 14, 1868.—Read, ordered to lie on the table and be printed.

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*To the Senate of the United States :*

In answer to the resolution of the Senate of yesterday, calling for information relating to the appointment of the American minister at Peking to a diplomatic or other mission on behalf of the Chinese government by the Emperor of China, I transmit a report from the Secretary of State on the subject, together with the accompanying papers.

ANDREW JOHNSON.

WASHINGTON, *January* 14, 1868.

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DEPARTMENT OF STATE,

*Washington, January* 14, 1868.

The Secretary of State, who has received a resolution of the Senate of the 13th instant, calling for such information, "if there be any in the State Department, as relates to the appointment of the American minister at Peking, honorable Anson Burlingame, to a diplomatic or other mission in behalf of the Chinese government by the Emperor of China, and if such appointment has been made, whether the same has been accepted," has the honor to enclose a copy of a despatch of the 13th ultimo, from Cassius M. Clay, esq., the United States minister at St. Petersburg, and of two telegraphic despatches which accompanied the same. These papers contain the only information in the possession of this department relating to the subject of the resolution.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

*Mr. Clay to Mr. Seward.*

No. 167.]

LEGATION OF THE UNITED STATES,  
*St. Petersburg, Russia, December 13, 1867.*

SIR : I enclose you the following telegram from the Hon. A. Burlingame. It seems he is made the commissioner of the Chinese government with treaty powers, and leaves at once for San Francisco, November 23, 1867.

I am in receipt of your despatches to No. 248, inclusive, with enclosures.

I am, sir, your obedient servant,

C. M. CLAY.

Hon. W. SEWARD, &c., &c., &c.

[Telegram *via* Kiachta.]

UNITED STATES LEGATION,  
*Pekin, November 23, 1867.*

*To his Excellency Hon. Cassius M. Clay, United States Minister :*

Chinese empire appointed me envoy to treaty powers. Accepted. Leave immediately for San Francisco.

ANSON BURLINGAME.

MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING,

*In compliance with a resolution of the Senate of January 13, 1868, further information in relation to the appointment of Hon. Anson Burlingame to a mission by the Emperor of China.*

FEBRUARY 26, 1868.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

*To the Senate of the United States :*

In further answer to the resolution of the Senate of the 13th of January last, relative to the appointment of the Hon. Anson Burlingame to a diplomatic or other mission by the Emperor of China, I transmit a report from the Secretary of State, and the communication which accompanied it.

ANDREW JOHNSON.

WASHINGTON, *February 25, 1868.*

DEPARTMENT OF STATE,

*Washington, February 25, 1868.*

The Secretary of State, in further answer to a resolution of the Senate of the 13th of January last, calling "for such information, if there be any, in the State Department, as relates to the appointment of the American minister at Peking, Hon. Anson Burlingame, to a diplomatic or other mission, in behalf of the Chinese government; by the Emperor of China; and if such appointment has been made, whether the same has been accepted," has the honor to lay before the President a copy of a communication of the 14th of December last, which has just been received from Mr. Burlingame.

Respectfully submitted :

WILLIAM H. SEWARD.

To the PRESIDENT.

*Mr. Burlingame to Mr. Seward.*

SHANGHAI, *December 14, 1867.*

SIR : You will have learned from my telegram from Peking of my appointment by the Chinese government as "envoy" to the treaty powers, and of my acceptance of the same.

The facts in relation to the appointment are as follows : I was on the point of proceeding to the treaty ports of China to ascertain what changes our citizens desired to have made in the treaties, provided a revision should be determined

upon ; after which it was my intention to resign and go home. The knowledge of this intention coming to the Chinese, Prince Kung gave a farewell dinner, at which great regret was expressed at my resolution to leave China, and urgent requests made that I would, like Sir Frederick Bruce, state China's difficulties and inform the treaty powers of their sincere desire to be friendly and progressive. This I cheerfully promised to do. During the conversation, Wensiang, a leading man of the empire, said, "Why will you not represent us officially?" I repulsed the suggestion playfully, and the conversation passed to other topics.

Subsequently, I was informed that the Chinese were most serious, and a request was made through Mr. Brown, Chinese secretary of the British legation, that I should delay my departure for a few days, until a proposition could be submitted to me. I had no further conversation with them until the proposition was made in form, requesting me to act for them as ambassador to all the treaty powers. I had, in the interim, thought anxiously upon the subject, and after consultation with my friends, determined, in the interests of our country and civilization, to accept. The moment the position was formally tendered, I informed my colleagues of all the facts, and am happy to say that they approved of the action of the Chinese and did all they could to forward the interests of the mission.

J. McLeavy Brown, esq, Chinese secretary of the British legation, was persuaded in the common interest to act as first secretary to the mission, and Mr. Dechamps, a French gentleman who had accompanied Ping on a visit to Europe, was selected as second secretary. Two Chinese gentlemen of the highest rank were selected from the foreign office to conduct the Chinese correspondence and as "learners." My suite will number about thirty persons. I shall leave for the United States by the February steamer for California.

I limit myself in this note to the above brief history of the mission, reserving my reasons for accepting it to a personal interview at Washington.

I may be permitted to add, that when the oldest nation in the world, containing one-third of the human race, seeks, for the first time, to come into relations with the west, and requests the youngest nation through its representative to act as the medium of such change, the mission is one not to be solicited or rejected.

Dr. S. Wells Williams, for the sixth time, has been left in charge of the United States legation in China, and is, in every respect, competent to conduct its affairs.

Permit me to request the government, most earnestly, not to name my successor until I can give it information which may be useful in making a selection.

I have the honor to be, sir, your obedient servant,

ANSON BURLINGAME.

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

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VOLUNTEER OFFICERS.

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LETTER

FROM

THE SECRETARY OF WAR,

IN ANSWER TO

*Resolution of April 9, 1867, transmitting a list of the volunteer officers in the military service of the government at the time the resolution was received, and a like list of those at present retained in the service.*

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JANUARY 16, 1868.—Referred to the Committee on Military Affairs and ordered to be printed.

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WAR DEPARTMENT,  
Washington City, January 15, 1868.

SIR: In compliance with the Senate's resolution of April 9, 1867, I have the honor to send herewith a list of the names of volunteer officers in the military service of the government at the date of its preparation, with their rank and the particular duties to which they were assigned. Since that date, at various times, all these officers have been mustered out of the service, with the exception of the following named:

Major General Oliver O. Howard, United States volunteers; Brigadier and Brevet Major General R. K. Scott, United States volunteers; Colonel and Brevet Brigadier General F. D. Sewall, Veteran Reserve Corps; Colonel and Brevet Brigadier General Orlando Brown, twenty-fourth United States colored troops; Lieutenant Colonel Frederick S. Parker, Veteran Reserve Corps; Major William H. Wiegel, assistant adjutant general; Major M. R. Delaney, 104th United States colored troops; Captain E. B. Whitman, assistant quartermaster; Captain Samuel R. Hamill, assistant quartermaster; Captain John O. Grierson, assistant quartermaster; Captain H. A. Royce, assistant quartermaster; Captain Charles W. Folsom, assistant quartermaster; Captain Edgar C. Beman, commissary of subsistence; Captain George W. Balloch, commissary of subsistence; Captain James H. Remington, Veteran Reserve Corps; Captain George E. Judd, Veteran Reserve Corps; Captain Richard Dillon, Veteran Reserve Corps; Captain William L. Van Derlip, Veteran Reserve Corps; First Lieutenant Andrew Coats, Veteran Reserve Corps; Second Lieutenant Austin W. Fuller, Veteran Reserve Corps; Second Lieutenant A. W. McKellip, Veteran Reserve Corps; Second Lieutenant John M. Foote, Veteran Reserve Corps; Second Lieutenant Samuel

Walker, Veteran Reserve Corps ; Second Lieutenant Charles W. Dodge, Veteran Reserve Corps ; Additional Paymasters D. H. McPhail, David Taylor, Dwight Bannister, W. H. Scott, Frank Bridgman, Joshua H. Watts, Josiah A. Brodhead, Albert D. Robinson, Edwin L. Moore, Calvin Holmes, Edwin Beecher, George W. Dyer, Harlan P. Wolcott, Jesse Bowen, Wellington Vrooman, George Truesdell, Owen T. Turney, Joseph W. Drew, Thomas H. Gardner, Nathaniel A. Tucker, and David Gribbin.

These officers were retained on duty because their services were required, and for the same reason those *now* in the service are continued.

Very respectfully, your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

HON. B. F. WADE,  
*President of the Senate.*



# VOLUNTEER OFFICERS.

3

*List of officers of volunteers now in the service of the United States, showing the authority by which they have been retained in service, or the reasons for which they have not been mustered out; also the duties which they are performing; furnished in compliance with resolution of the Senate dated April 9, 1867.*

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.
<b>GENERAL OFFICERS.</b>					
1	Ethan A. Hitchcock.	Major general	Commissary General of Prisoners	.....	.....
2	Oliver O. Howard	do	Comm	.....	.....
3	Daniel E. Sickles	do	Comm	.....	.....
4	Wager Swayne	do	Assists of A	.....	.....
5	Robert K. Scott	Brigadier general	Assists of South Carolina.	.....	.....
<b>ADJUTANT GENERAL'S DEPARTMENT.</b>					
1	Charles W. Foster	Major	In charge bureau colored troops, Adj't General's office.	.....	.....
2	William H. Wiegell	do	Bureau Refugees, &c., Maryland and Delaware.	.....	.....
3	F. W. Taggard	do	Bureau colored troops, Adjutant General's office.	.....	.....
4	Albert E. H. Johnston	do	it	.....	.....
5	Henry W. Smith	Captain	Carolina.	.....	.....
6	Wilson T. Harts	do	Prisoners.	.....	.....
<b>HOSPITAL CHAPLAINS.</b>					
1	Vincent Palen	Hospital chaplain.	Sup't national cemeteries, Norfolk and Portsmouth, Va.	.....	.....
2	William Earnshaw	do	In charge national cemeteries, Stone River and Nashville, Tenn.	.....	.....
<b>QUARTERMASTERS' DEPARTMENT.</b>					
1	Geo. D. Wite	Captain	In charge 3d division, Quartermaster General's office.	.....	.....
2	Henry M. Whittlesey	do	Chief quartermaster Bureau Refugees, &c.	.....	.....
3	George Q. White	do	Bureau Refugees, &c., Richmond, Va.	.....	.....

*List of officers of volunteers now in the service of the United States—Continued.*

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.
<b>QUARTERMASTERS' DEPARTMENT—Continued.</b>					
4	James F. Rusling .....	Captain.....	Inspecting duty, quartermaster dep't in California.....	.....	.....
5	Robert C. Morgan .....	do.....	Assistant quartermaster's office, New York city.....	.....	.....
6	John B. Howard .....	do.....	Post quartermaster, Denver City, Colorado Ter.....	.....	.....
7	Edmund B. Whitman .....	do.....	.....	.....	.....
8	Joseph D. Stubbs .....	do.....	.....	.....	.....
9	Henry Page .....	do.....	.....	.....	.....
10	Franklin A. Seely .....	do.....	.....	.....	.....
11	William B. Armstrong .....	do.....	.....	.....	.....
12	James P. Low .....	do.....	.....	.....	.....
13	Thomas P. Johnston .....	do.....	Series in South Carolina.....	.....	.....
14	Samuel R. Hamill .....	do.....	Bureau Refusees &c North Carolina.....	.....	.....
15	Samuel J. Wright .....	do.....	Quartermaster,.....	.....	.....
16	Andrew W. Willis .....	do.....	c., district of.....	.....	.....
17	Joseph M. Brown .....	do.....	Miss.....	.....	.....
18	James G. Payne .....	do.....	C.....	.....	.....
19	George W. Marshall .....	do.....	D. C.....	.....	.....
20	Charles Barnard .....	do.....	Bureau Ref.....	.....	.....
21	H. J. Farnsworth .....	do.....	Orleans, La.....	.....	.....
22	Charles T. Watson .....	do.....	'the Gulf.....	.....	.....
23	Joseph T. Powers .....	do.....	&c, Georgia.....	.....	.....
24	Amos Webster .....	do.....	.....	.....	.....
25	R. C. Rutherford .....	do.....	.....	.....	.....
26	John C. Grierson .....	do.....	Post quartermaster, Mobile, Ala.....	.....	.....
27	H. A. Royce .....	do.....	In charge 8th division. Quartermaster General's office.....	.....	.....
28	C. W. Folson .....	do.....	In Quartermaster General's office.....	.....	.....
29	Thos. G. Whytal .....	do.....	Chief quartermaster military district of Fort Monroe.....	.....	.....

SUPPORT DEPARTMENT.				
1	Egbert T. S. Schlenck	Captain	Colonel by assignment, depot commissary subsistence, Cairo, Ill.	
2	Edgar C. Beman	do	Purchasing and depot commissary subsistence, Boston, Mass.	
3	George W. Balloch	do	Lieutenant colonel by assignment, chief commissary subsistence and disbursing officer, Bureau Ref. &c.	
4	William F. Johnson	do	Office post commissary subsistence, Washington, D. C.	
MEDICAL DEPARTMENT.				
1	Robert Fletcher	Surgeon	Completing his accounts as medical purveyor	
2	J. H. Baxter	do	Preparing medical statistics of late Provost Marshal General's office	
3	Jacob J. De Lanater	do	Surgeon in chief Bureau Refugees, &c., Virginia	
4	Adam C. Swartzwelder	do	Surgeon in chief Bureau Refugees, &c., Kentucky and Tennessee.	
5	John H. Bayne	do	Post surgeon.	
6	William R. De Witt	do	Surgeon in chief Bureau Refugees, &c., Kentucky	
7	Michael K. Hogan	do	Surgeon in chief Bureau Refugees, &c., South Carolina	
8	Charles J. Kipp	do	Surgeon in chief Bureau Refugees, &c., Alabama	
9	Joseph W. Applegate	do	Surgeon in chief Bureau Refugees, &c., Florida	
10	Patrick Glennan	Assistant surgeon.	Bureau Refugees, &c., Washington, D. C.	
PAY DEPARTMENT.				
1	Daniel H. McPhail	Major	General's office.	
2	David Taylor	do		
3	Dwight Bannister	do		
4	W. H. Scott	do		
5	Frank Bridgman	do	On duty in pay district of Missouri and Mississippi	
6	Joshua H. Watts	do	On duty in pay district of Indiana and Illinois	
7	Josiah A. Brodhead	do	On duty in pay district of New Mexico	
8	Albert D. Robinson	do	On duty in pay dist. of New York and New England.	
9	Edwin L. Moore	do	In division referred claims, Paymaster General's office.	
10	Calvin Holmes	do	In division referred claims, Paymaster General's office.	
11	Edwin Beecher	do	Chief disbursing officer Bureau Refugees, &c., Ala.	
12	George W. Dyer	do	In division referred claims, Paymaster General's office.	
13	Harlan P. Wolcott	do	In division referred claims, Paymaster General's office.	
14	Jesse Bowen	do	Awaiting orders	

## VOLUNTEER OFFICERS.

*List of officers of volunteers now in the service of the United States—Continued.*

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.	
PAY DEPARTMENT—Continued.						
15	Wellington Vrooman.....	Major.....	On duty in pay district of the Cumberland.....	.....	Appointed in the regular army.	
16	George Truesdell.....	do.....	In division deferred claims, Paymaster General's office.....	.....		
17	Owen T. Turney.....	do.....	On duty in pay district of the Gulf.....	.....		
18	Joseph W. Drew.....	do.....	On duty in pay district of the Pacific.....	.....		
19	Thomas H. Gardner.....	do.....	In division referred claims, Paymaster General's office.....	.....		
20	Albert G. Salisbury.....	do.....	On duty in pay district of the South.....	.....		
21	Nathaniel A. Tucker.....	do.....	In division referred claims, Paymaster General's office.....	.....		
22	David Gribben.....	do.....	On duty in pay district of the Gulf.....	.....		
JUDGES ADVOCATE.						
1	Guido N. Lieber.....	Major.....	.....	.....		
2	De Witt Clinton.....	do.....	.....	.....		
3	William W. Winthrop.....	do.....	.....	.....		
4	H. B. Burnham.....	do.....	Headquarters 1st military district.....	.....		
5	Edgar W. Dennis.....	do.....	Bureau of military justice, Washington.....	.....		
6	Thomas F. Barr.....	do.....	Bureau of military justice, Washington.....	.....		
7	Richard H. Montgomery.....	do.....	Bureau of military justice, Washington.....	.....		
8	Herbert P. Curtis.....	do.....	Bureau of military justice, Washington.....	.....		
9	Henry Goodfellow.....	do.....	Bureau of military justice, Washington.....	.....		
VETERAN RESERVE CORPS.						
1	Frederick D. Sewall.....	Colonel.....	Bureau of Refugees, Freedmen, &c., Georgia.....	Section 4, act of July 16, 1868.		
2	Charles F. Johnson.....	do.....	do.....	do.....		
3	John Fly.....	do.....	do.....	do.....		
4	Frederick S. Palmer.....	Lieutenant colonel.....	do.....	do.....		
5	John B. Callis.....	do.....	do.....	do.....		
6	Benjamin F. Foust.....	do.....	do.....	do.....		
7	Martin Flood.....	do.....	do.....	do.....		



8	Stephen Moore .....	do.	do.	North Carolina.	do.
9	James Johnson .....	Major	do.	Virginia	do.
10	H. D. Norton .....	Captain	do.	North Carolina.	do.
11	James H. Remington .....	do.	do.	Virginia.	do.
12	George F. Schayer .....	do.	do.	Louisiana.	do.
13	Newton M. Brooks .....	do.	do.	Virginia.	do.
14	A. A. Lawrence .....	do.	do.	Maryland	do.
15	John Amrien .....	do.	do.	Louisiana.	do.
16	George E. Judd .....	do.	do.	Tennessee.	do.
17	Samuel Place, jr. ....	do.	do.	South Carolina	do.
18	Charles Banzhoff .....	do.	do.	Arkansas.	do.
19	George Pingree .....	do.	do.	South Carolina	do.
20	Joseph C. Rodriguez .....	do.	do.	Kentucky.	do.
21	George S. Smith .....	do.	do.	Mississippi.	do.
22	Garrett Nagle .....	do.	do.	South Carolina	do.
23	John O'Dwyer .....	do.	do.	Virginia.	do.
24	William R. Marse .....	do.	do.	Virginia.	do.
25	William F. White .....	do.	do.	Georgia.	do.
26	John J. Knox .....	do.	do.	Georgia.	do.
27	James M. Tracey .....	do.	do.	Tennessee.	do.
28	N. Sellers Hill .....	do.	do.	Georgia.	do.
29	Ira Ayer, jr. ....	do.	do.	Virginia.	do.
30	William H. Eldridge .....	do.	do.	Mississippi.	do.
31	A. W. Preston .....	do.	do.	Mississippi.	do.
32	Baley B. Brown .....	do.	do.	Louisiana.	do.
33	C. A. De La Mesa .....	do.	do.	Georgia.	do.
34	Frederick Moseback .....	do.	do.	Georgia.	do.
35	Seneca G. Willaner .....	do.	do.	Louisiana.	do.
36	Charles Wolff .....	do.	do.	North Carolina.	do.
37	James Cromie .....	do.	do.	Louisiana.	do.
38	George R. Walbridge .....	do.	do.	Georgia.	do.
39	Henry H. Foster .....	do.	do.	North Carolina.	do.
40	Robert P. Gardner .....	do.	do.	Mississippi.	do.
41	Richard Dillon .....	do.	do.	North Carolina.	do.
42	Hugo Hillebrandt .....	do.	do.	North Carolina.	do.
43	John A. McDonnell .....	do.	do.	Virginia.	do.
44	William L. Ryan .....	do.	do.	Mississippi.	do.
45	Henry C. Brandt .....	do.	do.	South Carolina.	do.
46	Erastus E. Platt .....	do.	do.	Mississippi.	do.
47	John W. Jordan .....	do.	do.	Virginia.	do.
48	William P. Austin .....	do.	do.	Virginia.	do.

*List of officers of volunteers now in the service of the United States—Continued.*

VOLUNTEER OFFICERS.

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.
	VETERAN RESERVE CORPS— Continued.				
49	Andrew Mahoney .....	Captain.....	Bureau of Refugees, Freedmen, &c., Florida .....	Section 4, act of July 16, 1866.	
50	William L. Van Derlip .....	do.....	do.....	do.....	
51	Irving F. Wilcox .....	do.....	do.....	do.....	
52	J. W. De Forest.....	do.....	do.....	do.....	
53	Joshua H. Hastings.....	do.....	do.....	do.....	
54	Edward Miller .....	do.....	do.....	do.....	
55	Samuel C. Gold.....	do.....	do.....	do.....	
56	Samuel W. Carpenter .....	do.....	do.....	do.....	
57	Nathan H. Randlett.....	do.....	do.....	do.....	
58	Roderick Theune .....	do.....	do.....	do.....	
59	E. M. L. Ehlers .....	do.....	do.....	do.....	
60	C. R. Becker.....	do.....	do.....	do.....	
61	Frederick W. Thibaut.....	do.....	do.....	do.....	
62	William Morgan .....	do.....	do.....	do.....	
63	Joseph H. Durkee.....	do.....	do.....	do.....	
64	William H. H. Peck .....	do.....	do.....	do.....	
65	Wallace W. Tyler .....	do.....	do.....	do.....	
66	Gilbert R. Chandler .....	do.....	do.....	do.....	
67	Eleazer H. Ripley.....	do.....	do.....	do.....	
68	Frederick M. H. Kendrick .....	do.....	do.....	do.....	
69	A. Webster Shaffer .....	do.....	do.....	do.....	
70	S. W. Purchase.....	do.....	do.....	do.....	
71	Michael V. Walsh.....	do.....	do.....	do.....	
72	Eugene Pickett.....	do.....	do.....	do.....	
73	William W. Jones .....	do.....	do.....	do.....	
74	John O. O'Neill.....	do.....	do.....	do.....	
75	Joshua W. Sharp .....	do.....	do.....	do.....	
76	James R. Stone.....	do.....	do.....	do.....	
77	George B. Carse .....	do.....	do.....	do.....	
78	James W. Sunderland .....	do.....	do.....	do.....	

70	William L. Tibball.....	do	do	Virginia	do
80	William Brian.....	do	do	Arkansas	do
81	J. H. Chapman.....	do	do	Mississippi	do
82	E. B. Gates.....	do	do	Virginia	do
83	A. W. Bolenius.....	do	do	North Carolina	do
84	First Lieutenant.....	do	do	Alabama	do
85	".....	do	do	Louisiana	do
86	".....	do	do	Mississippi	do
87	".....	do	do	Virginia	do
88	".....	do	do	Virginia	do
89	".....	do	do	Georgia	do
90	".....	do	do	Mississippi	do
91	".....	do	do	Virginia	do
92	George A. Lindlow.....	do	do	Louisiana	do
93	Charles McDougall.....	do	do	Virginia	do
94	Newton Whitten.....	do	do	Virginia	do
95	Charles W. Peirce.....	do	do	Alabama	do
96	Charles S. Schaeffer.....	do	do	Virginia	do
97	John Jones.....	do	do	Alabama	do
98	Amos S. Collins.....	do	do	Florida	do
99	John C. Chance.....	do	do	South Carolina	do
100	Marcus S. Hopkins.....	do	do	Virginia	do
101	P. E. Connor.....	do	do	Alabama	do
102	".....	do	do	Maryland	do
103	".....	do	do	Virginia	do
104	E. A. Chandler.....	do	do	Virginia	do
105	Sidney B. Smith.....	do	do	Mississippi	do
106	John D. Moore.....	do	do	Kentucky	do
107	Robert W. Roberts.....	do	do	Louisiana	do
108	James Hough.....	do	do	Maryland	do
109	George E. Henry.....	do	do	Arkansas	do
110	Isiah S. Taylor.....	do	do	North Carolina	do
111	Joseph F. Allison.....	do	do	South Carolina	do
112	William H. H. Holton.....	do	do	Georgia	do
113	Oliver B. Gray.....	do	do	Louisiana	do
114	Frank A. Osborn.....	do	do	Louisians	do
115	George W. Rollins.....	do	do	North Carolina	do
116	George S. Hawley.....	do	do	North Carolina	do
117	Andrew Coats.....	do	do	Florida	do
118	Jacob A. Renley.....	do	do	Louisiana	do
119	Frank R. Chase.....	do	do	do	do



*List of officers of volunteers now in the service of the United States—Continued.*

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.
	<b>VETERAN RESERVE CORPS— Continued.</b>				
120	W. James Kay.....	First lieutenant...	Bureau of Refugees, Freedmen, &c... Kentucky.....	Section 4, act of July 16, 1866.	
121	Daniel M. White .....	do.....	do.....	do.....	Mississippi.....
122	James De Gray .....	do.....	do.....	do.....	Louisiana.....
123	Frank P. Gross.....	do.....	do.....	do.....	Arkansas.....
124	Erastus W. Everson .....	do.....	do.....	do.....	South Carolina.....
125	William F. De Knight .....	do.....	do.....	do.....	Virginia.....
126	A. B. Grunwell.....	do.....	do.....	do.....	Florida.....
127	William H. Webster .....	do.....	do.....	do.....	Louisiana.....
128	William H. Cornelius .....	do.....	do.....	do.....	Louisiana.....
129	York A. Woodward .....	do.....	do.....	do.....	Kentucky.....
130	William F. Martins .....	do.....	do.....	do.....	Georgia.....
131	Montgomery S. Reed.....	do.....	do.....	do.....	Virginia.....
132	Charles F. Rand.....	do.....	do.....	do.....	Texas.....
133	Henry F. Wallace .....	do.....	do.....	do.....	Louisiana.....
134	William J. Harkisheimer .....	do.....	do.....	do.....	South Carolina.....
135	Joseph T. H. Hall .....	Second lieutenant	do.....	do.....	Virginia.....
136	James R. Walker.....	do.....	do.....	do.....	Arkansas.....
137	Martin J. De Forest.....	do.....	do.....	do.....	South Carolina.....
138	Edwin W. Busby.....	do.....	do.....	do.....	Virginia.....
139	Andrew G. Deacon .....	do.....	do.....	do.....	Virginia.....
140	Ira D. McClary.....	do.....	do.....	do.....	Louisiana.....
141	James M. Johnson.....	do.....	do.....	do.....	South Carolina.....
142	D. Jerome Connolly.....	do.....	do.....	do.....	Virginia.....
143	Hector Sears.....	do.....	do.....	do.....	Virginia.....
144	Benjamin F. Shaum.....	do.....	do.....	do.....	Virginia.....
145	Edward L. Dean.....	do.....	do.....	do.....	South Carolina.....
146	Jesse B. Clinton .....	do.....	do.....	do.....	Virginia.....
147	Wells S. Bailey .....	do.....	do.....	do.....	Kentucky.....
148	Charles M. Hamilton.....	do.....	do.....	do.....	Florida.....
149	Austin W. Fuller.....	do.....	do.....	do.....	North Carolina.....
150	William N. Thompson.....	do.....	do.....	do.....	North Carolina.....

### VOLUNTEER OFFICERS.

151	Hiram T. Hunt.....	do.	do.	do.	Virginia
152	Jesse C. Hendon.....	do.	do.	do.	Arkansas
153	William R. Wentworth ..	do.	do.	do.	Virginia
154	Louis W. Stevenson.....	do.	do.	do.	Virginia
155	A. W. McKillip.....	do.	do.	do.	North Carolina
156	Albert A. Metzner.....	do.	do.	do.	Texas
157	William G. Vance.....	do.	do.	do.	Florida
158	James F. Bolton.....	do.	do.	do.	Kentucky
159	" " " " " "	do.	do.	do.	North Carolina
160	" " " " " "	do.	do.	do.	Virginia
161	" " " " " "	do.	do.	do.	Virginia
162	" " " " " "	do.	do.	do.	Arkansas
163	" " " " " "	do.	do.	do.	South Carolina
164	" " " " " "	do.	do.	do.	Virginia
165	" " " " " "	do.	do.	do.	Virginia
166	" " " " " "	do.	do.	do.	Arkansas
167	Morton Havens.....	do.	do.	do.	Virginia
168	Winfield S. Chase.....	do.	do.	do.	Virginia
169	John H. Brough.....	do.	do.	do.	Louisiana
170	Sylvanus Hersey.....	do.	do.	do.	Arkansas
171	Henry K. W. Ayers.....	do.	do.	do.	Virginia
172	John M. Foote.....	do.	do.	do.	North Carolina
173	Llewellyn Echelberry....	do.	do.	do.	North Carolina
174	Marcellus L. Stearns....	do.	do.	do.	Florida
175	John L. Graham.....	do.	do.	do.	Kentucky
176	Levi F. Burnett.....	do.	do.	do.	Kentucky
177	Isaac Porter.....	do.	do.	do.	North Carolina
178	Hiram F. Willis.....	do.	do.	do.	Arkansas
179	Samuel Walker.....	do.	do.	do.	Tennessee
180	Joseph Logan.....	do.	do.	do.	Alabama
181	Benjamin C. Cook.....	do.	do.	do.	Virginia
182	Charles W. Dodge.....	do.	do.	do.	North Carolina
183	Richard Folles.....	do.	do.	do.	Louisiana
184	Thomas D. McAlpine.....	do.	do.	do.	North Carolina
185	Alfred F. Manning.....	do.	do.	do.	Texas

BATTALION NEW MEXICO VOL-  
UNTEERS.

1	Christopher Carson.....	Lieut. colonel.	On duty with battalion.
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## VOLUNTEER OFFICERS.

*List of officers of volunteers now in the service of the United States—Continued.*

No.	Names.	Rank.	Duties.	Authority by which retained.	Remarks.
	BATTALION NEW MEXICO VOL- UNTEERS—Continued.				
	<i>Company A.</i>				
2	T. S. Coughlin.....	First lieutenant....	On duty with company.....	.....	
3	Ed. S. Merritt.....	Second lieutenant..	.....do.....	.....	
	<i>Company B.</i>				
4	John Thompson.....	Captain.....	On duty with company.....	.....	
5	James W. Tanfield.....	First lieutenant....	.....do.....	.....	
6	Thomas W. Smith.....	Second lieutenant..	.....do.....	.....	
	<i>Company C.</i>				
7	Albert Phieffer.....	Captain.....	On duty with company.....	.....	
8	Thomas T. Bartlett.....	First lieutenant....	.....do.....	.....	
9	Robert H. Whatley.....	Second lieutenant..	.....do.....	.....	
	<i>Company D.</i>				
10	Donacina Montaya.....	Captain.....	On duty with company.....	.....	
11	C. H. De Forrest.....	First lieutenant....	.....do.....	.....	
12	John Day.....	Second lieutenant..	.....do.....	.....	
	COMPANY I FIRST OREGON IN- FANTRY.				
1	Franklin B. Sprague .....	Captain.....	On duty with company.....	.....	Under orders to be mustered out.
2	Harrison B. Oatman.....	First lieutenant....	.....do.....	.....	Do.

### VOLUNTEER OFFICERS.

1	Charles F. Johnson OFFICERS OF UNITED STATES COLORED TROOPS WHOSE REGIMENTS ARE MUSTERED OUT.	Captain.....	Seventeenth Iowa volunteers.....		Enduring from severe gun-shot wound ; retained by reason of his inability to travel, under rule of the department.
1	O. Brown.....	Colonel.....	Bureau of Refugees, Freedmen, &c.. Virginia.....	Section 4, act of July 16, 1866.	
2	E. Whittlesey.....	do.....	do.....	do.....	
3	C. H. Howard.....	do.....	do.....	do.....	
4	W. W. Beebe.....	Lieut. colonel.....	do.....	do.....	
5	W. R. Delaney.....	Major.....	do.....	do.....	
6	J. T. Watson.....	do.....	do.....	do.....	
7	A. P. Kekuh.....	Captain.....	do.....	do.....	
8	Henry Sweeney.....	do.....	do.....	do.....	
9	T. R. Noble.....	Chaplain.....	do.....	do.....	
10	Massfield French.....	do.....	do.....	do.....	
11	A. S. Dyer.....	First lieutenant.....	do.....	do.....	
12	S. N. Clark.....	do.....	do.....	do.....	
13	S. Eldridge.....	do.....	do.....	do.....	
14	S. Gerstner.....	do.....	do.....	do.....	
15	N. Goff, jr.....	Second lieutenant.....	do.....	do.....	
16	William A. Cutler.....	Colonel.....	Member of general court-martial.....	do.....	Detailed on court- martial before mus- tar out of regiment. Court still in ses- sion.
17	S. B. Huested.....	do.....	do.....	do.....	
18	J. J. Sullivan.....	do.....	do.....	do.....	
19	E. Crawford.....	Second lieutenant.....	do.....	do.....	
20	C. F. Brown.....	Captain.....	Awaiting sentence of general court-martial.....	do.....	Retained for trial.
21	J. H. Griggs.....	Second lieutenant.....	do.....	do.....	
22	J. M. Hamilton.....	First lieutenant.....	On duty with ninth United States cavalry.....	do.....	
23	C. D. Beyer.....	Second lieutenant.....	do.....	do.....	
24	E. S. Lamberton.....	First lieutenant.....	On duty with fortieth United States infantry.....	do.....	

### VOLUNTEER OFFICERS.

## RECAPITULATION

	Major generals.	Brigadier generals.	Colonels.	Lieutenant colonels.	Majors.	Captains.	Chaplains.	First lieutenants.	Second lieutenants.	Total.
General officers.....	4	1	.....	.....	.....	.....	.....	.....	.....	5
Adjutant General's department.....					4	2				8
Hospital chaplains.....					.....	.....	2			2
Quartermaster's department.....					.....	29				29
.....					.....	4				4
.....					.....	.....		1		10
.....					9					9
.....					23					23
.....					.....	.....				10
.....					9					9
Veteran Reserve Corps. ....					.....	.....				185
Officers of white organizations whose regiments, &c., are still in service .....			3	5	1	74		51	51	14
Officers of white organizations whose regiments, &c., have been mustered out.....				1	.....	4		5	4	14
Officers of colored organizations whose regiments, &c., have been mustered out.....					.....	1		.....	.....	1
.....			4	1	3	4	2	6	4	24
Total.....	4	1	7	7	III	116	4	63	69	311







LETTER  
OF  
THE SECRETARY OF THE TREASURY,  
COMMUNICATING,

*In compliance with a resolution of December 9, 1867, information in relation to the action of that department with reference to captured and abandoned property.*

JANUARY 20, 1868.—Read, referred to the Joint Committee on Retrenchment, and ordered to be printed.

TREASURY DEPARTMENT, *January 16, 1868.*

SIR: In reply to a resolution of the Senate, adopted December 9, 1867, requiring certain information in relation to the action of this department with reference to captured and abandoned property, I have the honor to report as follows:

That on the 2d of March, 1867, in reply to a resolution of the Senate of February 5, 1867, I communicated a list of parties to whom *cotton* or its proceeds had been released or given up, together with a statement of the value and amounts of the same. A copy of this former communication (Senate Executive Doc No. 37, 39th Congress, 2d session) is annexed and made a part of this communication.

This statement was made up from the books and records in the Secretary's office, and was believed to be substantially correct. I have now caused to be added, in answer to the further inquiry of the present resolution, the name of the State in which the claimant professed to reside. On revision only one case is ascertained to have been omitted, and that by accident. It is known as the Gibbes cotton case, in which the property was detained for a time and then allowed to be shipped, as stated in the accompanying letter, marked C.

It will be observed that the document above referred to reports only releases of *cotton*. Releases of miscellaneous property, other than cotton, have been small in amount. A list of the cases will be prepared and forwarded, as soon as possible, in a supplementary report, this reply having already been unavoidably delayed too long on account of the resignation of the assistant secretary and of the head of the captured and abandoned property division.

Household furniture, family relics, books, &c., generally taken by military order for temporary use, and subsequently transferred to treasury agents, were ordered to be restored to the original owners by my circular letter of September 6, 1865, whenever the conditions named therein were complied with. (See document marked D, annexed.)

In one case, that of Lewis Washington, the household furniture having been sold at auction by mistake of the treasury agent, the proceeds of sale, amounting to \$1,162 71, were restored in lieu of the furniture.

In compliance with the request of a sub-committee of the Joint Committee on Retrenchment, dated April 4, 1867, no releases of property, held as captured or abandoned, have been since made, nor claims in connection therewith paid ex-

cept for expenses in collecting the property. In the interval of a month between the report to the Senate, hereto attached, and the request of the Committee on Retrenchment, claims to the amount of \$7,126 82 were allowed. One compromise, however, has been made in the case of a suit pending against the United States in the United States circuit court of New York, known as the "Dennistoun" cotton case. The agent of the United States was under a replevin bond in this suit of \$400,000, which amount of money the government deposited as his surety in the Farmers' Loan and Trust Company of New York. As this cotton was not ostensibly the property of the late rebel government, nor captured nor abandoned, but was alleged to have been purchased legally after the close of the rebellion from a foreign firm by Dennistoun, Wood & Co., of New York, it was thought advisable by eminent counsel to pay the sum of \$53,000 for a final settlement and release the money on deposit.

The resolution requires me to report the evidence upon which such property or its proceeds was released. To copy the affidavits filed during nearly five years in these cases would apparently employ any force I have at my command for such a purpose for over six months; I have therefore thought it more in accordance with the wishes of the Senate to make this present answer to the other points of inquiry, and in regard to the evidence to propose to send for its inspection the documents on file in any particular case that may be demanded, or to make a supplementary report whenever it can be prepared.

The evidence in each case is of the nature indicated briefly in my letter of March 2, 1867. Prior to the close of the rebellion claimants were invariably required to furnish competent proof of loyalty.

The authority under which action had been taken by the department, and cotton and other property, or its proceeds, returned to its owners, was also concisely but distinctly stated in the aforesaid letter. It was the opinion of my predecessors in office that it was not only the right, but the duty of the Treasury Department to examine the facts in relation to all property coming to the hands of its agents; and if it appeared that the same had been taken in violation of law, to restore it or its proceeds to its owners. The rule as adopted by them was sufficiently broad to authorize them to adjudicate the title to property taken by the army or navy and turned over to agents of the Treasury Department. But after the capture of Savannah, and of the large amounts of cotton therein, the Attorney General gave the department his opinion, that all questions arising with reference to property taken by the military authorities could be adjudicated in the Court of Claims; which opinion has since governed the action of the department as to cases considered as fairly within the purview of the same.

In relation, however, to cotton or other property taken possession of by treasury agents without military assistance or intervention, I have followed the practice of my predecessors, and have investigated the circumstances of the seizure; and if it has appeared in any case that the property was not rightfully subject to seizure, I have restored the same or its proceeds to its lawful owners.

In view of the action taken by my predecessors, who established the settled practice of the department, and in the absence of any legislation for the purpose of altering that practice, it seems to me that it would not only have been inexpedient, but unlawful, for me to have refused to take similar action to revise and correct the errors, mistakes, and frauds of my own subordinate officers and agents. It would hardly have been tolerated, if the department at the close of the rebellion had sent throughout the south agents to collect captured and Confederate property, and had refused to exercise the authority to revise and control their proceedings. If an agent seized the private property of an individual through mistake or error, or for fraudulent purposes, and the owner presented himself at the department with full and undisputed proof of the facts, could the department justify itself in refusing to correct the wrong done to a citizen, and

refer him to the Court of Claims for his only remedy? If such had been the rule, acts of robbery and oppression without number would have attended the efforts which were made to secure the property which rightfully belonged to the government. In the view taken by the department, the late Attorney General, Hon. James Speed, concurred, as will be seen by his opinion in the case of Joseph P. Billups, a copy of which is herewith transmitted, marked E.

After the rebellion was practically terminated by the surrender of the confederate armies in the spring of 1865, all restrictions upon trade were removed; and it was decided to confine the action of the department to the seizure and conversion to the uses of the government of property which had been transferred by its owner to the uses of the so-called confederacy, and had become in form the property of such confederacy, or such as had been captured by the military forces, or which had been used directly or indirectly, or intended to be used, in aid of the rebellion. While thus engaged in making collections of the aforesaid property, agents of the department frequently seized the property of private individuals, who complained to the department for redress, which, upon clear proof, was duly afforded. In some cases of this character, it is possible that property seized or detained was restored to its owners without requiring proof that they had not aided the rebellion. To have required such proof would have been practically allowing the agents of the department to seize, after the war closed, the private property of any southern citizen, when their instructions were to collect only property which answers to the above description. In no case, however, it is believed, was property or its proceeds restored to any unpardoned rebel.

In some important cases in which the numerous and imperfect affidavits seemed to require a more rigid analysis than usual, I have not trusted to the clerks in charge for a report, nor to my own judgment exclusively, and have procured the opinion of eminent counsel before action. Not involving a distinct point of law for decision, these cases could not be submitted to the Attorney General, whose duties do not embrace the investigation of facts. In such cases the fee of the special counsel has been made a charge upon the proceeds of the property in question, whether the petition for release was allowed or rejected. In no other way have claimants been required by any action of the department "to pay any fee or compensation of any kind to any attorney or other person."

In further reply to the resolution of the Senate I have the honor herewith to transmit copies of the correspondence between this department and the various officers of the Court of Claims in relation to judgments rendered by said court in cotton cases. Judgments to the amount of \$131,450 58 having been rendered by the court in favor of claimants of cotton taken by the military forces during the rebellion, I deemed it my duty, on account of the importance of the questions which had arisen, and of the large amounts involved in similar cases to follow, to endeavor to secure appeals therein to the Supreme Court of the United States. Motions being duly made for that purpose and fully argued, the Court of Claims decided that no right of appeal to the Supreme Court existed by statute in this class of cases, and refused to allow the appeals. Being called upon, therefore, in pursuance of law, to pay the judgments, I submitted the question to the First Comptroller of the Treasury, who advised that the decisions were not conclusive as to the net proceeds remaining in the treasury of any specific property, and that it was my duty to ascertain the exact amount thereof before paying the judgments. Knowing that the calculations made by the court were based upon the deposition of an agent whose accounts had not been officially examined and passed, I revised them to make them conform to the official statements, and in all cases paid what was ascertained to be, as nearly as possible, the correct amount.

With great respect, your obedient servant,

HUGH McCULLOCH,  
*Secretary of the Treasury.*

*The PRESIDENT of the United States Senate.*

## A.

THIRTY-NINTH CONGRESS, SECOND SESSION. [SENATE EX. DOC. No. 37.]

*Letter of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of February 5, 1867, information in relation to the amount of money received from sales of cotton or other property turned over to the Treasury Department under the several laws of Congress, and the disposition made of the same.*

TREASURY DEPARTMENT, *March 2, 1867.*

SIR: I have the honor to acknowledge the receipt of a resolution of inquiry adopted in the Senate on the 5th of February last, in the following words: "That the Secretary of the Treasury be directed to report, for the information of Congress, what amount of money has been received from sales of cotton or other property turned over to the Treasury Department under the several laws of Congress, and what disposition has been made of the same; whether any of the money has been paid or refunded to claimants; and if so, the names of such claimants, the amounts severally paid, and under what authority of law and upon what evidence such payments have been made."

In response to the inquiry concerning the amount of money received from sales of cotton or other property, &c., I have the honor to state that by reports furnished to the chairman of the sub-committee of the Joint Committee on Retrenchment, on the 14th of November last, which were prepared by the proper accounting officers of the department, it appears that the total amount received from the various sources, properly enumerated under the general head of captured and abandoned property, was \$34,052,809 54, of which amount the sum of \$24,742,022 55 remains as net proceeds.

The voluminous detailed statements upon which these figures are based, and to which reference is hereby respectfully made, were placed in the possession of the sub-committee alluded to at the time stated. It is presumed they are, at any time, accessible to or subject to the call of the Senate.

In response to the remaining clauses of the resolution, I have the honor to transmit herewith two tabular statements, marked respectively A and B, and to state, in explanation thereof, that since the passage of the act of March 12, 1863, concerning captured and abandoned property, &c., Secretary Chase, Secretary Fessenden, and the present Secretary of the Treasury have, in certain cases, ordered the redelivery to claimants of cotton and other property which was taken possession of by agents or officers of the government, under the belief that the same ought to be so taken possession of as captured or abandoned, but which, upon an investigation of the facts, proved not to be legally or properly liable to such seizure; and also in certain cases where such cotton and other property so improperly taken had been converted into money, which had not been covered into the treasury, have ordered the payment of such proceeds to the claimants.

The accompanying statements referred to show in what particular cases and to what amount such redeliveries and payments have been made.

The claims examined and decided have been numerous and complicated. The papers and evidence in the same are voluminous, and cannot be readily incorporated into a general statement; but the same are of record in the department, and, in any case which the Senate desire specially to investigate, will be submitted for examination.

All moneys realized from the sales of property received under the act in question and other similar acts, not repaid to claimants as set forth in statements A and B, or disbursed as expenses of collecting and disposing of the same as provided by law, have passed into the hands of the Treasurer of the United States, and have also been regularly covered into the treasury as receipts from captured

and abandoned property, except the sum of \$500,000, now on deposit with the Farmers' Loan and Trust Company of New York, to secure the sureties on a bond required to be given by Simeon Draper, late cotton agent at New York, in a suit against him, and now pending in New York, instituted by the firm of Dennistoun & Co., to recover the proceeds of alleged blockade cotton, taken by agents of the government and shipped to Mr. Draper, for sale; and except, also, about \$700,000, which remains uncovered, for the payment of expenses incident to the collection, care, and disposition of such property, as provided by law; to defray the expenses of certain suits for the recovery of such property or its proceeds, now being prosecuted abroad; to satisfy any judgments which may be obtained against any agents of the department in suits instituted against them for acts done in an official capacity concerning such property; and also to await the final settlement of certain specific claims pending for the proceeds of property alleged to have been wrongfully taken, which the department may properly adjudicate.

In all cases arising under the statutes relative to captured, abandoned, or confiscable property, where the same was taken possession of by agents or officers of the Treasury Department, without the intervention of the military authorities, Secretary Chase, Secretary Fessenden, and the present Secretary, have felt authorized to revise the action and correct the errors of subordinate officers of the department; to investigate the facts and circumstances relative to property so seized, and to restore the same or its proceeds to the owners, if it had been illegally or improperly taken.

The action of the present Secretary in this class of cases has been in accordance with oral and written opinions, given in particular cases by the late Attorney General, Hon. James Speed.

In cases where property has been taken possession of by military authorities, and delivered to agents of the Treasury Department, some doubt has existed as to whether the department could revise the action of the military authorities and restore property unlawfully taken.

Secretary Chase inclined to the opinion that the Treasury Department could not take jurisdiction in any case of military seizure, but on the 13th of May, 1864, he submitted the question to the Solicitor of the Treasury, who, on the 26th of May, advised the Secretary that "the fact that such property may have been turned over to the agent of this department by military authorities does not, in any manner, affect the power or duty of the department or its agents to inquire whether or not the property is in truth such as is described by the act, and that both the power and the duty to make such inquiry—first, in the agent, and next, in the head of the Treasury Department, of which such agent is a subordinate officer—seems to arise necessarily out of the nature of the duties to be performed. The agent is not to take *all* property indiscriminately, but such only as is specified in the law. Who is to determine whether any given parcel of property is such as he is required to take or not? I cannot doubt that it is first himself and afterwards his superior, the Secretary of the Treasury."

A copy of the Solicitor's opinion is annexed, and marked C.

Secretary Fessenden adopted the opinion of the Solicitor, and on the 22d of August, 1864, formally approved the same by the following endorsement thereon:

"I concur in the opinion of the Solicitor.

"WM. P. FESSENDEN.

"AUGUST 22, 1864."

The department acted upon this opinion, although the cases in which releases of property or its proceeds were made were few and not of large amount, until some time after the capture of the Savannah cotton. The large amounts involved in that capture made the question one of such importance that it was submitted by the present Secretary of the Treasury, on the 17th of June, 1865, to the Attorney General, Hon. James Speed, who, on the 5th of July, 1865,



gave his opinion that jurisdiction to examine the facts and to restore the property of loyal citizens improperly taken by the military authorities could not be taken by the President or Secretary of the Treasury, or any commission by them appointed, but that the proceeds of such property ought to be paid into the treasury, to await the action of the Court of Claims or of Congress.

A copy of the opinion of the Attorney General is annexed, marked D.

This opinion of the Attorney General has since governed the action of this department as to cases considered as fairly coming within the purview of the same.

In accordance with the views above stated, the cases specified in statement B, hereto annexed, have been examined and allowed by the present Secretary and his immediate predecessor in office. Upon due proof of any unlawful taking of private property by agents of the department, the facts being shown by satisfactory affidavits, the reports of agents or by other adequate written evidence, the agents holding such property have been ordered to restore the same to the owners, or the proceeds, if not actually covered into the treasury, have been paid to them by order of the department.

With great respect, your obedient servant,

H. McCULLOCH,  
*Secretary of the Treasury.*

The PRESIDENT of the Senate.

*A.—Statement of claims for cotton voluntarily abandoned by its owners to agents of the Treasury Department.*

Date.	Claimant.	Amount of claim.	Cotton released.	Proceeds released.
		<i>Bales.</i>	<i>Bales.</i>	
Dec. 1, 1863	George B. Anthony .....	62	.....	\$15,577 12
Dec. 29, 1863	Mrs. Amelia Allen .....	40	40	
Nov. 30, 1863	Mrs. Mary C. Bledsoe.....	44	.....	7,990 69
Nov. 30, 1863	Mrs. Mary C. Bledsoe.....	68	.....	16,871 97
April 25, 1864	S. B. Beaumont.....	6	.....	1,502 65
Feb. 5, 1864	Mary T. Bonham .....	25	.....	5,508 14
Aug. 18, 1863	S. J. Brown.....	38, and 2 sacks.	38, and 2 sacks.	
April 2, 1864	L. W. Bolson .....	6	.....	1,531 88
Feb. 13, 1864	W. H. Botts.....	16	.....	3,107 37
Nov. 30, 1864	Mrs. Mary C. Bledsoe.....	16	.....	3,647 08
Sept. 29, 1863	E. T. Beers .....	107	.....	15,982 11
Sept. 18, 1863	Mrs S. M. Bush.....	22	.....	2,886 12
Nov. 28, 1863	P. H. Cobb .....	44	44	
April 30, 1864	C. C. Calloway.....	3	.....	643 53
Dec. 30, 1863	O. N. Cutler.....	54	.....	7,387 56
Nov. 28, 1863	P. H. Cobb .....	11	.....	1,793 48
Sept. 25, 1863	Sherrard Clemens .....	47	47	
Aug. 19, 1864	Sherrard Clemens.....	143	.....	70,276 89
Nov. 30, 1863	Charles Delano .....	36	.....	10,174 24
Aug. 27, 1863	Charles Delano.....	255	.....	44,539 51
Aug. 30, 1864	S. & W. Dickens.....	61	.....	6,810 62
Mar. 3, 1864	John Denson.....	21	.....	4,825 96
Feb. 29, 1864	S. De Bow .....	3	.....	635 28
April 2, 1864	Abel Davenport .....	16	.....	1,854 93
April 14, 1864	J. Denson .....	43	.....	10,940 97
April 14, 1864	J. Denson .....	5	.....	1,273 06
Sept. 21, 1863	H. P. Duncan.....	1,109	1,109	
May 20, 1865	W. H. Ennis.....	33	.....	8,036 31
May 30, 1864	Mrs. E. M. Eddington .....	34	.....	6,715 49
Nov. 29, 1863	E. B. Fuller .....	28	.....	3,907 62

## CAPTURED AND ABANDONED PROPERTY.

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*Statement of claims for cotton voluntarily abandoned, &c—Continued.*

Date.	Claimant.	Amount of claim.	Cotton released.	Proceeds released.
		<i>Bales.</i>	<i>Bales.</i>	
June 20, 1864	William Fisher.....	5	.....	\$1,282 45
Sept. 19, 1864	Yatman & Co .....	88	.....	15,993 65
Sept. 12, 1864	Yatman & Co .....	243	243	
Sept. 12, 1864	Yatman & Co .....	106	106	
May 3, 1864	S. Galloway.....	6	.....	711 44
Feb. 13, 1864	Patrick Gilfoy.....	9	.....	1,813 89
Sept. 18, 1863	Ira Hardin .....	8	8	
Jan. 9, 1864	John Hallam.....	35	.....	7,705 89
Nov. 28, 1863	David Hall.....	58	.....	11,697 08
Nov. 4, 1864	W. L. Horton .....	13	.....	3,373 70
April 1, 1864	R. S. Innis .....	66	66	
Oct. 16, 1863	J. H. Jarman .....	25	.....	4,377 04
Sept. 18, 1863	T. D. Knox.....	181	.....	21,215 94
April 1, 1864	William B. King.....	9	.....	3,132 44
Aug. 18, 1863	J. W. Leftwich & Co.....	33	.....	3,938 37
May 4, 1864	Sancho Lynch.....	9	.....	1,956 99
May 12, 1865	J. M. Latta.....	7	.....	1,900 11
Sept. 12, 1863	Miss Mary C. Lane.....	4	4	
Feb. 6, 1864	R. J. Matthews and others.....	86	.....	12,743 78
Nov. 30, 1863	Miss Kate Marcy .....	2	.....	202 99
Sept. 12, 1863	E. Mayer, .....	13	13	
Sept. 26, 1863	J. E. Merriman.....	37	37	
Nov. 28, 1863	A. N. Marcy .....	29	.....	6,839 92
Nov. 28, 1863	R. V. Montague.....	74	74	
Sept. 18, 1863	E. Mayer .....	28	.....	5,739 80
May 3, 1864	L. D. Mayer.....	30	.....	9,266 60
May 3, 1864	A. McBurney .....	28	.....	6,690 64
Aug. 12, 1864	Northrop & Smith .....	138	138	
Aug. 12, 1864	Northrop & Smith .....	102	.....	\$12 871 26
Aug. 12, 1864	Northrop & Smith .....	114	114	
Aug. 12, 1863	William Nichols .....	251	.....	65,270 15
June 9, 1864	C. Northrop & Co .....	13	.....	4,117 81
Sept. 29, 1863	George P. Peters.....	15	15	
Mar. 4, 1864	J. F. Richey .....	29	.....	5,608 14
July 18, 1864	R. M. Robinson .....	106	.....	22,103 34
Dec. 29, 1863	C. Stoddard, jr., & Co .....	39	.....	1,939 55
Dec. 1, 1863	Warren Shaw .....	35	.....	2,821 99
Feb. 1, 1864	Warren Shaw .....	53	.....	2,831 70
May 3, 1864	Robert Stewart .....	54	.....	7,847 95
Nov. 23, 1864	T. R. Sloan .....	94	.....	15,013 37
July 6, 1865	Thomas Sweeny .....	2	.....	480 60
Nov. 28, 1863	H. B. Tibbetts .....	141	.....	29,087 20
Nov. 28, 1863	H. B. Tibbetts .....	10	.....	1,752 62
Dec. 29, 1863	A. & J. Trounstine .....	15	.....	3,202 07
July 2, 1864	John Turner .....	2	.....	231 87
Sept. 28, 1863	T. L. Van Fossen .....	15	.....	1,750 35
Aug. 26, 1863	Foley Vaughan.....	10	10	
Oct. 17, 1863	Mrs. Gracia Walton.....	51	51	
Oct. 17, 1863	A. G. Ward .....	50	50	
Feb. 8, 1864	Charles Warfield.....	25	.....	7,449 53
Dec. 11, 1863	S. B. Young .....	136	.....	32,999 65
Dec. 11, 1863	S. B. Young .....	28	.....	8,393 14
Dec. 11, 1863	S. B. Young.....	133	.....	26,027 85
			2,207	616,843 44

NOTE.—In reference to this statement it is proper to say that certain agents, acting under a misapprehension of the instructions of the department, induced owners of cotton to bring in and voluntarily abandon it, on the assurance that the same, or its proceeds, would be restored on application to the department. Therefore, in any particular case, upon due proof, and where the agent who received the property certified that he had given such assurances, Secretary Chase directed its release or the payment of its proceeds, considering that neither justice nor good faith warranted the retention by the government of property thus voluntarily confided to its protection.



## CAPTURED AND ABANDONED PROPERTY.

B.—Statement of cotton claims adjudicated by the Secretary of the Treasury, exclusive of claims for cotton voluntarily abandoned.

Date.	Claimant.	Amount of claim.	Decision.	Cotton released.	Proceeds released.	Remarks, reasons for release, and nature of evidence.
Oct. 7, 1866	A. R. Andrews <i>et al</i> .....	<i>Reles.</i> 28	Allowed .....	<i>Reles.</i> .....	\$1,316 27	Erroneously taken as abandoned.
April 7, 1866	W. W. Andrews, administrator .....	135	do .....	.....	14,491 98	Erroneously seized as the property of the rebel government.
Dec. 29, 1866	W. W. Andrews, administrator .....	91	.....	91	.....	Erroneously seized as the property of the rebel government.
Oct. 11, 1864	M. Benton .....	15	do .....	.....	2,612 57	Brought in by military for owner.
May 18, 1866	Mrs. A. A. Brabston .....	109	Rejected .....	.....	.....	Failed to identify.
Jan. 25, 1865	M. T. Bonham .....	59	Allowed .....	.....	14,232 23	.....
Aug. 15, 1865	Colonel Barnard .....	20	do .....	.....	6,009 66	.....
May 8, 1865	O. H. Brewer & Co .....	13	do .....	.....	1,048 63	.....
May 8, 1865	Brott & Davis .....	19	do .....	.....	4,514 45	.....
Oct. 1, 1864	Jonathan H. Brown .....	143	do .....	.....	82,311 08	.....
Nov. 19, 1864	Blanchford & Stone .....	44	do .....	44	.....	.....
April 22, 1864	George R. Bridges & Co .....	35	do .....	.....	20,059 49	Improperly seized as the property of the rebel government.
April 19, 1866	David Barrow .....	189	do .....	.....	59,904 73	Erroneously seized as abandoned.
Aug. 11, 1864	B. H. Beckner .....	69	do .....	.....	9,711 17	Erroneously seized as abandoned.
Jan. 3, 1865	Mrs. Judson Bass .....	83	do .....	.....	13,151 39	Erroneously seized as abandoned.
Jan. 12, 1864	Mary T. Bonham .....	20	do .....	.....	2,637 69	Erroneously seized as abandoned.
Sept. 1, 1864	Joseph Botto .....	9	do .....	.....	1,790 95	.....
.....	Mrs. L. C. Ballard .....	168	Rejected .....	.....	.....	.....
.....	Brindeau & Blanchard .....	156	do .....	.....	.....	.....
.....	E. W. Burbank .....	10	Allowed .....	.....	2,715 76	.....
.....	Bugher & Cones .....	16	Rejected .....	.....	28,201 28	.....
June 22, 1865	J. W. Black .....	55	Allowed .....	.....	.....	.....
.....	George C. Benham .....	8	Rejected .....	.....	.....	.....
Mar. 3, 1866	William Battersby & Co .....	607	Allowed .....	607	7,092 93	Erroneously seized as blockade cotton.
May 12, 1866	Mrs. E. D. Bachelor .....	45	do .....	.....	844 21	Erroneously seized as abandoned.
Sept. 12, 1866	W. Brannan <i>et al</i> .....	3	do .....	.....	.....	Erroneously seized.
Mar. 17, 1866	R. M. Browning .....	57	do .....	57	.....	Erroneously seized.
Nov. 14, 1864	C. H. Bland .....	107	do .....	107	.....	Erroneously seized.
May 9, 1866	Beal & Metcalf .....	206	do .....	206	.....	Improperly seized.

## CAPTURED AND ABANDONED PROPERTY.

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May 21, 1863	William Bryce & Co.....	30	do.....	30	.....	Erroneously seized.
Sept. 13, 1863	H. H. Bosch.....	0	Rejected.....	.....	.....	Abandoned property.
Nov. 9, 1863	John Hovius.....	93	Allowed.....	93	4,840 00	Seized as property of confederate government.
June 6, 1866	John Blevins.....	34	do.....	.....	10,200 00	Proceeds of cotton taken by the military forces, as stated by the Secretary of War.
Sept. 24, 1863	O. N. Cutler.....	197	do.....	.....	13,696 32	Brought in by military for owner.
Jan. 29, 1864	W. H. Cherry & Co.....	48	do.....	.....	5,002 65	Brought in by military for owner.
Jan. 26, 1864	J. J. Craig.....	1,600 lbs.	do.....	.....	742 48	Mixed with government cotton in shipping.
Jan. 26, 1865	S. Clemens.....	600	Rejected.....	.....	.....	Captured or abandoned.
Jan. 6, 1867	Carson & Jones.....	6	Allowed.....	.....	944 75	Extra risk in transporting government cotton.
	Temple Clark and Henry Warren, adverse claimants.	32	do.....	.....	9,214 84	Erroneously seized.
	A. C. Cloud.....	30,000 lbs.	Rejected.....	.....	12,910 84	Evidence of receipt insufficient.
Oct. 3, 1864	W. J. Cowan.....	23	do.....	.....	15,986 61	Proof of title insufficient.
Dec. 17, 1864	Temple Clark.....	24	Allowed.....	31	.....	Erroneously seized.
Dec. 23, 1864	Temple Clark.....	31	do.....	31	.....	Erroneously seized.
July 16, 1866	Cowan & Dickson.....	101	do.....	101	5,546 94	Sent in by military for owner.
Nov. 16, 1866	Carr, Glenn & Wright.....	52	do.....	.....	.....	.....
	A. F. Cramer & Co.....	20	Rejected.....	.....	.....	.....
	A. F. Crawford.....	107	Allowed.....	107	.....	.....
Nov. 16, 1866	Cazenove & Co.....	36	Rejected.....	.....	.....	.....
	Cohen & Herts.....	54	Allowed.....	54	.....	.....
May 7, 1866	M. Cummings, executor.....	115	do.....	115	.....	.....
April 11, 1866	W. M. Cozart.....	160	Rejected.....	.....	7,222 53	.....
	Mrs. Mary Cassin.....	50	Allowed.....	.....	.....	.....
April 7, 1866	Miss S. Camp.....	25	Rejected.....	.....	.....	.....
May 7, 1864	George H. Cheever, estate.....	3	do.....	.....	731 00	Seized as blockade cotton.
Dec. 11, 1863	Samuel Davis.....	23	Allowed.....	.....	2,169 46	Seized for supposed violation of regulations.
	H. L. Davis.....	1	Rejected.....	.....	.....	Shipped by military for owner.
	J. T. Douglas.....	26	Allowed.....	96	.....	Abandoned property.
April 17, 1866	S. DeBow & Co.....	50	do.....	50	.....	Improperly seized.
	Joseph Day.....	.....	do.....	.....	.....	Erroneously seized as subscribed to rebel government.
Nov. 23, 1864	J. D. B. DeBow.....	79	Rejected.....	.....	.....	Property of rebel government.
Dec. 27, 1866	D. Dupree.....	80	do.....	.....	10,109 03	Sold to rebel government.
Feb. 20, 1867	Charles W. Elliott.....	25	Allowed.....	.....	9,603 33	Brought in by military for owners.
	Mrs. A. F. Elliott.....	25	do.....	.....	.....	Erroneously seized as abandoned.
	H. Escoubas.....	9	Rejected.....	.....	.....	Military seizure.
	J. H. Echols.....	20	Allowed.....	.....	902 28	Erroneously seized.
	E. H. Forsyth.....	11	Rejected.....	.....	.....	Insufficient evidence.

## CAPTURED AND ABANDONED PROPERTY.

Statement of cotton claims adjudicated by the Secretary of the Treasury, &amp;c.—Continued.

Date.	Claimant.	Amount of claim.	Decision.	Cotton released.	Proceeds released.	Remarks, reasons for release, and nature of evidences.
Jan. 25, 1864	P. B. Fonke.....	Bales. 101	Allowed.....	Bales. 101	.....	Seized for supposed violation of regulations.
Feb. 12, 1864	J. W. Farr.....	128	do.....	128	.....	Erroneously seized as abandoned property.
Feb. 23, 1864	Sarah Foley.....	36	do.....	.....	\$8, 018 34	owner.
May 25, 1864	C. C. S. Farrar.....	19	do.....	19	.....	Seized for supposed violation of regulations.
May 17, 1866	Mrs. Susan Fletcher.....	32	Rejected.....	.....	.....	Seized for supposed violation of regulations.
May 17, 1866	W. Freeman.....	67	Allowed.....	.....	7, 611 68	Seized for supposed violation of regulations.
Dec. 5, 1866	Rev. Dr. Fuller.....	57	do.....	.....	3, 507 02	Seized for supposed violation of regulations.
Dec. 5, 1866	D. L. Ferguson.....	46	Rejected.....	.....	.....	Seized for supposed violation of regulations.
Dec. 5, 1866	P. A. Kennedy.....	13	do.....	.....	.....	Seized for supposed violation of regulations.
Dec. 5, 1866	Mrs. M. F. Fort.....	77	do.....	.....	.....	Seized for supposed violation of regulations.
Aug. 27, 1863	J. W. Green.....	28	Allowed.....	.....	4, 340 41	Sold to rebel government.
Sept. 2, 1864	Thomas Gillon.....	1	do.....	.....	283 32	Erroneously seized as abandoned.
June 2, 1865	Griggs & Thing.....	13	do.....	.....	7, 488 80	Erroneously seized as stolen property.
Aug. 12, 1864	M. Grundy.....	4	do.....	.....	.....	Seized through mistake.
July 13, 1865	Mrs. M. L. Graves.....	12	do.....	.....	535 69	Shipped by military for owners.
Nov. 14, 1864	G. W. Graham & Co.....	107	do.....	107	4, 312 26	Seized as property of a rebel.
Jan. 27, 1865	J. Griggs.....	34	do.....	.....	.....	Seized as rebel property.
Jan. 27, 1865	J. C. Greely.....	2	Rejected.....	.....	3, 792 16	Seized as rebel property.
Nov. 28, 1866	Juliet Glass.....	18	do.....	.....	.....	Seized as rebel property.
Nov. 28, 1866	W. H. Gill.....	22	do.....	.....	188 98	Military seizure.
Mar. 10, 1866	B. F. & E. George.....	175	Allowed.....	175	.....	Erroneously seized as tithes cotton.
Dec. 4, 1865	F. M. Gilmer, Jr.....	58	do.....	58	.....	Seized as abandoned.
Feb. 28, 1866	Mrs. L. F. Gibson.....	176	do.....	.....	36, 954 42	Seized as abandoned.
Dec. 17, 1863	J. G. Harrison.....	25	Rejected.....	.....	.....	Seized as abandoned.
Dec. 17, 1863	N. W. Halligan.....	9	Allowed.....	.....	1, 063 50	Brought in by military for owner.
Sept. 15, 1866	W. Hawes Harris.....	71	do.....	.....	8, 491 92	Erroneously seized as abandoned.
Oct. 19, 1865	do.....	113	do.....	.....	19, 953 96	Erroneously seized as abandoned.
Nov. 14, 1864	W. F. Harrell.....	50	Rejected.....	.....	.....	Sold to confederate government.
Nov. 14, 1864	W. R. Hodges.....	119	Allowed.....	119	.....	Erroneously seized as rebel property.
Nov. 14, 1864	E. J. Hart & Co. et al.....	31	do.....	31	.....	Erroneously seized as rebel property.
Mar. 31, 1866	J. F. Huddleton.....	69	do.....	.....	6, 321 39	Erroneously seized as abandoned.
July 16, 1866	S. Houston.....	22	Rejected.....	.....	.....	Captured property.
July 16, 1866	The J. Hughes.....	39	Allowed.....	.....	4, 160 20	Erroneously seized.

## CAPTURED AND ABANDONED PROPERTY.

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Date	Name	Case No.	Disposition	Value	Remarks	Status
July 16, 1861	Thos Hobson	62	do	.....	Erroneously seized as rebel property	
April 27, 1861	N. H. Harrison, et al.	63	do	.....	do	
Oct. 25, 1861	D. Hoyle	1	do	955 03	do	
Mar. 30, 1863	Mrs. T. B. Hoyt	12	Rejected	.....	do	
Dec. 11, 1863	Ezra W. Ingles	7	Allowed	1,493 60	do	
	William Jeana	19	do	9,195 80	do	
	H. M. James	38	Rejected	.....	do	
	Thomas W. Johnson	97	do	.....	do	
April 19, 1866	James River Manufacturing Co.	50	do	.....	do	
	J. H. Jarrott	63	Allowed	63	do	
Feb. 27, 1864	A. Kellogg	23	do	3,660 32	Shipped by military for owner.	
Nov. 14, 1865	Kahweiber Brothers	85	do	.....	Erroneously seized.	
	Keen & Scott	67	Rejected	85	Military seizure.	
Nov. 7, 1864	Lazare & Webb	10	Allowed	10	Improperly seized.	
	Michael Lynch	30	Rejected	.....	Insufficient proof.	
June 18, 1866	A. E. Lunsford	20	Rejected, but paid on decree of court.	10,635 77	Labelled as confiscable; decree in favor of claimant.	
	Mrs. C. M. Locke	21	Rejected	.....	Insufficient evidence of identity.	
Nov. 1, 1866	Elizabeth Lanier	64	do	.....	Sold to rebel government.	
Jan. 8, 1866	W. G. Lightfoot	10	Allowed	1,490 00	Erroneously seized.	
April 30, 1866	do	63	do	63	Erroneously seized.	
July 11, 1865	E. J. Lide	58	do	58	Sold to confederate government.	
	Louisiana State Bank	749	do	749	Erroneously seized.	
	George W. Lane	257	do	257	Erroneously seized.	
Feb. 14, 1865	G. B. Lamar	948	Rejected	.....	Captured and blockaded.	
Aug. 22, 1864	V. T. Merideth	14	Allowed	3,869 41	Improperly seized as rebel property.	
Aug. 9, 1864	J. G. Michie	176	do	41,363 58	Erroneously seized as abandoned.	
Feb. 24, 1864	R. V. Montague	48	do	9,304 72	Contract for collecting abandoned cotton.	
	H. McLeary	80	do	11,245 97	Improperly seized.	
Oct. 14, 1863	Captain McMillan	78	Rejected	.....	Abandoned property.	
July 23, 1865	Hugh Maher et al	150	do	32,792 43	Shipped by military for owners.	
	J. G. McBain	23	Allowed	3,200 72	Erroneously seized as property of rebel government.	
Jan. 24, 1865	Edw. Maxwell et al	28	do	7,423 52	Erroneously seized as abandoned.	
Nov. 14, 1864	A. S. Mansfield	245	do	245	Erroneously seized as rebel property.	
	James Meagher	45	Rejected	.....	Proof of identity insufficient.	
Dec. 10, 1866	R. Marc & Co.	68	Allowed	68	Erroneously seized as blockade cotton.	
	E. W. Massey	7	Rejected	.....	Captured property.	
Dec. 27, 1866	M. Malech	45	Allowed	7,239 40	Erroneously seized.	

## CAPTURED AND ABANDONED PROPERTY.

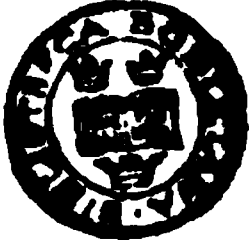
Statement of cotton claims adjudicated by the Secretary of the Treasury, &amp;c.—Continued.

Date.	Claimant.	Amount of claim.	Decision.	Cotton released.	Proceeds released.	Remarks, reasons for release, and nature of evidence.
Jan. 2, 1866	Mrs. E. Miller .....	<i>Bales.</i> 72	Allowed .....	<i>Bales.</i> .....	\$8,558 56	Erroneously seized as property of rebel government.
	A. McDonald .....	91	do .....	91	.....	Erroneously seized.
	Mrs. F. A. Moore .....	180	Rejected .....	.....	.....	Sold to rebel government.
	James McDaniel .....	99	do .....	.....	.....	Captured property.
	Abra. Navara .....	15	do .....	.....	.....	Shipped by military for owners.
Nov. 30, 1863	Mrs. L. D. Neff .....	3	Allowed .....	.....	803 37	Seized and labelled as property of a rebel.
Aug. 26, 1864	Paul Butler & Co .....	63	Actual purchase money allowed on grounds of purchase in good faith by claimants.	.....	13,491 80	
May 13, 1864	J. P. Peabody .....	4	Allowed .....	.....	727 15	Improperly seized.
Nov. 11, 1865	Fergus Peniston .....	60	do .....	.....	7,033 76	Improperly seized.
June 27, 1866	W. A. Pattison .....	60	do .....	.....	2,673 62	Brought in by military for owner.
May 11, 1866	P. Foulaine & Co .....	575	do .....	575	.....	Improperly seized.
May 8, 1866	T. F. Persons, est. ....	50	do .....	50	.....	Erroneously seized.
	Pierco & Maxwell .....	30	Rejected .....	.....	.....	Seized as confederate property.
	I. A. Roberts, administrator .....	61	do .....	.....	.....	Sold by confederate agent.
	W. P. Rambert .....	100	do .....	.....	.....	Captured property.
Jan. 28, 1865	Clay Roberts .....	33	Allowed .....	.....	18,518 36	as abandoned.
Nov. 30, 1863	Mrs. Ricketts & Bell .....	28	do .....	.....	.....	for owner.
Dec. 31, 1864	C. C. Row .....	2	do .....	.....	477 78	Sold to confederate government.
July 13, 1864	Harriott A. Robb .....	17	do .....	.....	3,401 80	Erroneously seized as abandoned.
	M. Ross .....	229	Rejected .....	.....	.....	Captured or abandoned.
May 10, 1865	Alice Roby <i>et al</i> .....	120	do .....	.....	.....	Erroneously seized.
	William Riddle .....	6	Allowed .....	.....	579 68	Captured or abandoned.
Aug. 22, 1866	A. Richards <i>et al</i> .....	7	Rejected .....	.....	.....	Erroneously seized.
	Patrick Robinson .....	10	Allowed .....	.....	738 50	Insufficient evidence.
	M. Rosa .....	15	Rejected .....	.....	.....	No evidence of receipt.
	John Smith .....	22	do .....	.....	.....	Subscribed to rebel government.
	W. A. Scott .....	25	do .....	.....	.....	

Sept. 19, 1865	W. A. Scott.....	14	Allowed.....	04	701 94	Erroneously seized. Improperly seized. Erroneously seized as abandoned.
	William M. Smith.....	143	do.....		14,718 99	Military seizure.
	Warren Shaw.....	11	Rejected.....			Failure to identify.
Nov. 7, 1865	Warren Shaw.....	46	do.....			Seized for supposed violation of law.
June 20, 1865	Manuel Snapp.....	57	Allowed.....	57		Erroneously seized as property of a rebel.
	W. P. Suggs.....	31	do.....	31		No evidence of receipt by Treasury Department.
May 3, 1864	Mary E. Stout.....	55,000 lbs	Rejected.....		7,847 95	Seized for supposed violation of regulations. Failure to identify.
	Robert Stewart.....	54	Allowed.....			
	James Stewart.....	177	Rejected.....			
	G. P. Swift.....	55	do.....			
May 2, 1866	Paran Stevens <i>et al</i> .....	60	Allowed.....		10,423 20	Erroneously seized as abandoned.
May 2, 1866	J. M. Stark.....	300	do.....		48,337 66	
Oct. 23, 1866	H. Spanier.....	53	do.....		2,439 00	
April 14, 1866	Saloman Root & Co.....	128	do.....	128		
Aug. 27 and Dec. 26, 1864	H. B. Tibbatts.....	95	do.....		9,304 72	
			do.....			
Aug. 29, 1864	Samuel Templeton.....	30	Rejected.....			
June 20, 1865	E. G. Thompson.....	31	Allowed.....		7,207 22	Military seizure.
Oct. 8 and 27, 1865.	O. O. Tadini.....	35	do.....	35		Seized for supposed violation of law.
	G. W. Turner and Clark Wright & Co., adverse claimants.	165	Proceeds turned over to supreme court, Cincinnati, Ohio.		43,046 02	Erroneously seized as abandoned.
			Rejected.....			
	G. W. Turner and J. H. Ha- worth, adverse claimants.	80	do.....			Seized as abandoned.
	J. C. Terry.....	200	do.....			
April 9, 1866	W. F. Turner.....	438	Allowed.....	438	7,728 99	Military seizure.
May 3, 1866	M. Trimble.....	20	do.....		2,016 49	for owner.
Dec. 14, 1866	A. E. Tracey & Co.....	45	do.....		15,327 14	
April 7, 1866	W. H. Thornton <i>et al</i> .....	114	do.....			Sold to confederate government.
	John M. Talc, est.....	282	Rejected.....			Insufficient evidence.
	M. Tully.....	9	do.....			Insufficient evidence.
	Junius Thomason.....	3	do.....			
Feb. 25, 1865	W. W. Witenbury.....	57	do.....			
July 16, 1863	Mrs. M. Womark.....	15	Allowed.....		3,908 03	of regulations.
Sept. 17, 1864	Miss Worcester.....	50	do.....	50		of a rebel.
Mar. 6, 1865	June S. Whayne.....	4	do.....	4		
April 6, 1864	J. M. Wiggins.....	4	do.....		1,020 79	
	R. F. Wilson.....	7	do.....		1,663 45	Improperly seized. Abandoned property.
	J. G. Wyley.....	74	Rejected.....			Erroneously seized as abandoned
	Webb & Lazare.....	10	Allowed.....	10		

Statement of cotton claims adjudicated by the Secretary of the Treasury, &c.—Continued.

Date.	Claimant.	Amount of claim.	Decision.	Cotton released.	Proceeds released.	Remarks, reasons for release, and nature of evidence.
Dec. 18, 1865	John P. White.....	Bales. 27	Allowed.....	Bales. 27	.....	Erroneously seized as rebel property.
	Victor F. Wilson <i>et al.</i> .....	664	Rejected.....	.....	.....	Abandoned property.
Feb. 19, 1864	Mrs. M. Ward.....	6	Allowed.....	6	.....	Erroneously seized.
	John S. Williams.....	220	....do.....	.....	\$33,100 80	Erroneously seized as property of rebel government.
July 24, 1866	Watts Crane & Co.....	264	....do.....	.....	48,305 42	Erroneously seized.
Jan. 19, 1866	John W. Williams.....	50	....do.....	50	.....	Improperly seized.
Dec. 14, 1866	B. F. Williams.....	288	Rejected.....	.....	.....	Sold to confederate government.
	F. H. Wild.....	100	....do.....	.....	.....	Sold to confederate government.
June 14, 1866	Jerre Walters <i>et al.</i> .....	412	Allowed.....	.....	44,719 95	Erroneously seized.
	Woods & Gardner.....	16	Rejected.....	.....	.....	Rebel property.
Sept. 15, 1866	J. M. Walton.....	3	Allowed.....	.....	345 00	Erroneously seized.
April 27, 1866	D. E. Wilson.....	4	....do.....	.....	1,389 00	Erroneously seized.
July 10, 1866	Charles Whitlock.....	15	.....	.....	4,825 91	Erroneously seized.
April 27, 1866	S. Williams.....	6	.....	6	.....	Erroneously seized.
	J. M. Wells.....	5	Allowed.....	.....	2,658 10	Erroneously turned over.
	A. Waddel.....	30	Rejected.....	.....	.....	Captured property.
	Total.....	.....	.....	.....	1,018,459 83	





*Cotton claims adjusted by the Secretary of the Treasury on the basis of the purchasing regulations.*

Date.	Claimant.	Amount of claim.	Cotton allowed.	Proceeds allowed.
		<i>Bales.</i>	<i>Bales.</i>	
	Kellinger & Featherby.....	4	.....	\$1,231 03
Nov. 6, 1865	Wilson, Gibson & Co.....	455	.....	59,979 48
May 15, 1865	Sanford Erwin.....	214	.....	62,108 76
May 30, 1865	A. H. Collister.....	73	.....	31,486 84
Nov. 22, 1866	Dwight & Gill.....	1,211	.....	69,099 80
Nov. 20, 1866	B. Jolly.....	1,172	.....	71,538 86
Dec. 16, 1865	C. A. Weed & Co.....	1,337	1,003	.....
Jan. 25, 1867	A. H. Lagare.....	227,248 lbs.	.....	25,000 00
Total...	.....	.....	.....	320,444 77

NOTE.—Under regulations relative to the purchase of products of insurrectionary States, authorized by the act of July 2, 1864, these claimants had purchased cotton under permits of President Lincoln, but were unable to deliver the same to the purchasing agents before the surrender of the rebel forces, after which it was taken possession of by the government. It appearing that the parties had acted in good faith, and had complied in every respect with their contracts, accordingly three-fourths of the cotton or its net proceeds were delivered to the claimants, and the one-fourth retained by the government.

#### CLAIMS FOR SALVAGE.

December 11, 1866.—Shepard, Parkman & Co., amount allowed.....	\$157,444 66
December 18, 1866.—John Duncan, amount allowed.....	97,284 26
Total.....	254,728 92

NOTE.—The case of Shepard and Parkman, Brooks & Co., and that of John Duncan, were of the same character as those above described arising under the purchasing system; but it appearing that the alleged purchase had not been perfected so as to make it a completed transaction, the claims in that form were not considered allowable. It was shown, however, that, acting in good faith in the assertion and protection of the rights they supposed they had acquired, the claimants in each case had expended money and performed valuable services in procuring military orders and guards, and other protection for it as private property, which saved the same from destruction by the rebel soldiery and other persons evilly disposed towards the government of the United States.

In consideration of such expenditures and services, an allowance as salvage was made in each case on so much of the cotton purchased under the executive permit, and so saved, as was actually received and sold by the government, throwing out all not identified as covered by the purchase, or not received and sold as above. Thus the Shepard-Parkman purchase was 19,700 bales, but an allowance was made as to only 11,255 bales—16½ per cent. of the net proceeds of which, or \$157,444 66, was paid as stated. \$30,000 of this amount was immediately returned to the treasury, in satisfaction of a debt assumed to be due the government by Parkman, Brooks & Co. In the Duncan case the purchase covered 5,005 bales, but the settlement made was only as to 3,484 bales—33½ per cent. of the net proceeds of which, or \$97,284 26, was paid as stated.

#### RECAPITULATION.

Number of bales of voluntarily abandoned cotton released.....	2,207
Number of bales of erroneously seized cotton released.....	6,356
Number of bales of cotton released on basis of purchasing regulations.....	1,003
Total number of bales released.....	9,566
Amount allowed on claims for cotton voluntarily abandoned.....	\$616,843 44
Amount allowed on claims for cotton erroneously seized, &c.....	1,018,459 83
Amount allowed on claims adjusted on basis of purchasing regulations.....	320,444 77
Amount allowed on claims for salvage.....	254,728 92
Total amount allowed on all claims.....	2,210,476 96

C.

TREASURY DEPARTMENT,

*Solicitor's Office, May 26, 1864.*

SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, asking my opinion upon the question, "Whether, in cases where property is turned over to agents of this department by military officers, under the act of Congress approved March 12, 1863, the Secretary of the Treasury has the power to inquire into the facts attending the action of the military authorities, and to so construe the act as to decide whether the property so turned over was actually captured or abandoned [property,] and if satisfied it was not, to release it to claimants; or whether he must regard and treat, as therein prescribed, *all* property so received from military authorities, leaving to the Court of Claims the question of capture," and to say "that in my judgment" the fact that such property may have been turned over to the agent of this department by military authorities does not in any manner affect the power or duty of the department or its agent to inquire whether or not the property is in truth such as is described by the act, and that both the power and duty to make such inquiry, first in the agent, and next in the head of the Treasury Department, of which such agent is a subordinate officer, seems to me to arise necessarily out of the nature of the duties to be performed. The agent is not to take all property indiscriminately, but such only as is specified by the law.

Who is to determine whether any given parcel of property is such as he is required to take or not? I cannot doubt that it is first himself and afterward his superior, the Secretary of the Treasury.

I return herewith the papers transmitted with your letter, and have the honor to be, with high respect,

EDWARD JORDAN,

*Solicitor of the Treasury.*

Hon. S. P. CHASE,

*Secretary of the Treasury.*

D.

*Mr. Speed to Mr. McCulloch.*ATTORNEY GENERAL'S OFFICE, *July 5, 1865.*

SIR: I have the honor to acknowledge the receipt of your letter of the 17th ultimo, submitting for my opinion the questions that have arisen in your department in the case of the "Savannah cotton."

The circumstances under which the property in question came into the possession of the government are stated in your letter substantially as follows:

On the occupation of the city of Savannah, in December last, by the United States forces under Major General Sherman, some thirty-eight thousand (38,000) bales of cotton were found stored there. This property was seized and taken possession of by the military authorities, and by them turned over to agents of the Treasury Department as "captured property," pursuant to the provisions of the acts of Congress of March 12, 1863, and July 2, 1864. (12 Stat. at Large, 820; 13 Id., 375.) After it was thus received by the appropriate agents, the property was forwarded to New York, and there sold at auction as provided by law.

You state that a number of claims for the proceeds of the sales are now being presented to your department, some of the claimants being residents of Savannah, who aver that they have been loyal to the government during the

rebellion; others, being subjects of foreign governments, resident in Savannah or abroad, averring that they were neutral during the late conflict; others again, being northern merchants, stating that they came into possession of the cotton claimed by them in payment of, or security for, debts contracted prior to the rebellion; and still others claiming restitution of their property, or its proceeds, on the ground that the cotton in question was not capturable, or properly "captured property," and should not be held and treated as such.

The first question arising on this state of facts that you submit is, whether the property to which reference has been made should or should not be regarded as "captured," under the acts of Congress of March 12, 1863, and July 2, 1864.

I do not perceive that either of the statutes provides what property shall be regarded as "captured property" within the meaning of the law. A definition of "abandoned" property, however, is contained in the first section of the act of 1864. That statute provides that *property*, real or personal, shall be regarded as *abandoned* when the lawful owner shall be voluntarily absent therefrom, and engaged, either in arms or otherwise, in aiding or encouraging the rebellion. (13 Stat. at Large, 376.) But I apprehend that there need be no difficulty in determining, for our present purposes, what property is comprehended by the phrase "captured property" as used in these statutes, for the phrase is its own sufficient explanation. I suppose that all movable property, other than that species described by the proviso to the first section of the act of 1863, *actually and hostilely seized and taken* on land, by a military officer or soldier of the United States, in a State or any portion of a State designated as in insurrection against the United States, may be regarded as "captured" within the meaning of the statutes of 1863 and 1864. I do not intend to say that no other property than that I have thus endeavored to describe may be denominated and treated "as captured property" under these statutes. It would seem, by the 7th section of the act of 1864, that certain property seized and taken by naval forces, viz., property seized by the navy "upon any of the inland waters of the United States," may be dealt with in the manner provided by the laws under consideration. (13 Statutes at Large, 377.) Whether this section takes away the prize jurisdiction of the courts in all cases of seizure of water-borne property on the inland waters of the United States, effected there by naval commissioned captors, and commits all jurisdiction over such cases to the Court of Claims and to Congress, must remain for judicial determination. But the Supreme Court has recently decided that private property, seized by a naval force on land bordering upon one of the inland waters of the insurrectionary south, was not the subject of prize jurisdiction, and as receivable by the treasury agents under the statute of 1863. (*W. S. vs. 72 bales of cotton*, Dec. 7, 1864, No. 360.) This decision was rendered in a case to which the act of 1864 did not apply, the capture there considered having been made prior to the passage of that statute.

I refer to it for the purpose of showing that certain cases of purely naval capture must pursue the course indicated in the statute for the collection of abandoned and captured property. I have said that property seized or taken by any military person in the insurrectionary territory is denominable as "captured," but the 6th section of the act of 1863 would seem to affix that character to "*cotton, sugar, rice, and tobacco*" *received* by any United States officer or soldier within insurrectionary districts. The section provides that it shall be the duty of every officer or private soldier who may take or *receive* abandoned property, or any cotton, sugar, rice, or tobacco, from persons in insurrectionary districts, or *have such property under his control*, to turn the same over to an agent of the Treasury Department; and it further provides that refusal or neglect to do so shall subject such an officer or soldier to trial and punishment. (12 Stat. at Large, 821.)

Property of the foregoing character thus turned over to a treasury agent,

and in that manner "*received*" by him, must be dealt with as the second section of the act provides; that is, it must be sold, and its proceeds paid into the treasury, there to await the action of the Court of Claims, when duly invoked.

Thus it appears that all *cotton* received by, or that may have come under the control of, any military officer or soldier, whether it was actually seized or captured by him or not, *must* be dealt with as "abandoned or captured property." I may have occasion hereafter to comment upon the effect of this provision.

The statute, it may be said, thus affixes to all *cotton*, as well as all the other articles above stated, that may be under the control of a military or naval officer in the insurrectionary districts, the *de jure* character of "captured" property; and when such property is received by a treasury officer, appointed to execute the provisions of the acts of 1863 and 1864, it becomes, it may be said, *de facto* "captured" property, and must be disposed of accordingly.

I am of opinion, therefore, that the cotton found by our army at Savannah, taken possession of there by the military authorities, and received from them by the agents of the Treasury Department, is and should be regarded as *de facto* and *de jure* "captured" property under the statutes of 1863 and 1864.

The second question which you propound is, whether, if this property be of the character that I am of opinion it is, the power rests with the Secretary of the Treasury or the President to appoint a commission to examine the claims, and restore to loyal claimants the proceeds of so much of the property in question as they can show to have been legally theirs.

I am of opinion that neither the President nor any other executive officer can restore, or authorize such a commission as you suggest to make restoration of, the proceeds of their captured property to these loyal claimants.

Congress, by the legislation under consideration, has reserved to itself the power of finally disposing of the claims of the alleged owners of this property; and so long as that legislation exists the claimants must pursue the remedy which it indicates for the establishment and enforcement of their rights. By the Constitution Congress has exclusive power "*to make rules concerning captures on land and water.*" The present legislation, I apprehend, is clearly an exercise of that power. This is a general and comprehensive sovereign prerogative. Under other systems of government the authority to make such rules may be exercised by the political department, but in this country the legislative department of the government possesses exclusive authority, both to establish rules for the regulation of the right of capture in time of war, and also to provide the method by which all questions touching captures may be determined.

The present legislation is not so much a regulation of the right of capture, though the 6th section of the act of 1863 may be interpretable as authorizing, if not commanding, the seizure of certain kinds of property found by our military forces within the hostile districts of the south, as it is a provision for the judicial ascertainment of the rights of persons affected by captures that may have been, or may be, made in the progress of our belligerent operations set on foot for the reduction of the rebellious southern country. Congress took notice of the *fact* that captures of private property on land had been made, and would continue to be made, by the armies operating in and against that territory, as a necessary and proper means of diminishing the wealth and thus reducing the power of the insurgent rulers. It was not expected that such captures had been, or would be, in all cases well and wisely made, or that, in the course of such predatory hostility, the innocent would not sometimes suffer as well as the guilty. Nor was it thought well that the administration, so to speak, of so much of the property within the enemy's territory as might be reduced into the possession of the military forces, should be controlled by or under executive authority. In this view of existing facts and of just policy, the system provided by the act of 1863 was devised for the adjudication and decision of the cases contemplated by the statute.

The Secretary of the Treasury was authorized to appoint agents to "collect all abandoned or captured property" in the enemy's country. To secure faithful and honest performance of their duty, the Secretary was authorized to require such agents to give bonds in such amounts as he might deem necessary. The duty of the agents was to receive all property in the insurgent States which was in fact captured or seized out of the enemy's possession by the military authorities. They had no duty or power to inquire whether or not such property had been rightfully captured; whether the generals who reported it to them for collection had observed, in effecting the captures, what are called "the recognized usages of war," or had violated all the principles of writers on what is styled the law of nations, supposed to tend against the right of seizing private property on land; but it was the duty of the treasury agents simply to receive all property reported to them as having been captured, irrespective of any considerations touching the legal exemption of any of it from seizure, and to dispose of it in the manner provided by the law.

After the conversion of the property into money, the proceeds were directed to be paid into the treasury. The words of the statute are, "the proceeds thereof shall be paid into the treasury of the United States." But these proceeds do not pass into the treasury as proceeds of property sold under a judicial sentence of confiscation. They are not sequestered or condemned, but simply held by the United States, so to speak, *in trust* for those who may, in the manner provided, and in the time limited by the law, ultimately establish a legal right to receive them after pacification.

When the insurrection has been suppressed, the owners are authorized to invoke the jurisdiction of the Court of Claims, and obtain there an adjudication of their respective claims.

The proceeds of the property are thus in the possession of the United States, subject to the adjudications of that court; and when it shall have passed upon the claimants' rights, and decreed in their favor, Congress has solemnly declared that they shall receive restitution of their property. In the presence of such legislation, (covering, as it does, the entire subject-matter, providing for the safe custody of the property in question pending hostilities, and for the final judicial determination of the rights of the parties in interest,) I cannot see that the Executive has power to make a different disposition of the property from that provided by Congress, or authorize any one to determine the questions which Congress has intrusted to the decision of another forum.

I am, therefore, of opinion, in reply to your inquiry, that jurisdiction cannot be conferred upon a commission, appointed either by the President or the Secretary of the Treasury, to examine the claims in question, and to make restoration of the proceeds of so much of this cotton as may belong to loyal claimants.

The third and last question you propound is, what disposition should be made of the proceeds of the sales of the property. I think that it is your duty to see that the direction of the act of Congress is obeyed by those in whose hands these proceeds may be. The statute says that after the sale of any abandoned or captured property "the proceeds thereof shall be paid into the treasury of the United States." I am of opinion, therefore, that the proceeds of the property in question should be paid into the treasury, there to await the action of the Court of Claims and of Congress.

Very respectfully, your obedient servant,

JAMES SPEED,  
*Attorney General.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*



B.—*Claims for cotton.*

Date.	Claimant.	Residence.
Dec. 1, 1863	George B. Anthony .....	Louisiana.
Dec. 29, 1863	Mrs. Amelia Allen .....	Do.
Nov. 30, 1863	Mrs. Mary C. Bledsoe .....	Do.
Nov. 30, 1863	Mrs. Mary C. Bledsoe .....	Do.
April 25, 1864	S. B. Beaumont .....	Tennessee.
Feb. 5, 1864	Mary T. Bonham .....	Mississippi.
Aug. 18, 1863	S. J. Brown .....	Do.
April 2, 1864	L. W. Bolson .....	Arkansas.
Feb. 13, 1864	W. H. Botts .....	Louisiana.
Nov. 30, 1864	Mrs. Mary C. Bledsoe .....	Do.
Sept. 29, 1863	E. T. Beers .....	Arkansas.
Sept. 18, 1863	Mrs. L. M. Bush .....	Do.
Nov. 28, 1863	P. H. Cobb .....	Ohio.
April 30, 1864	C. C. Calloway .....	Ohio.
Dec. 30, 1863	O. N. Cutler .....	Missouri.
Nov. 28, 1863	P. H. Cobb .....	Ohio.
Sept. 25, 1863	Sherrard Clemens .....	West Virginia.
Aug. 19, 1864	Sherrard Clemens .....	Do.
Nov. 30, 1863	Charles Delano .....	Illinois.
Aug. 27, 1863	Charles Delano .....	Illinois.
Aug. 30, 1864	S. & W. Dickens .....	Mississippi.
Mar. 3, 1864	John Denson .....	Louisiana.
Feb. 29, 1864	S. De Bow .....	Tennessee.
April 2, 1864	Abel Davenport .....	Louisiana.
April 14, 1864	J. Denson .....	Do.
April 14, 1864	J. Denson .....	Do.
Sept. 21, 1863	H. P. Duncan .....	Do.
May 20, 1865	W. H. Ennis .....	Illinois.
May 13, 1864	Mrs. E. M. Eddington .....	Louisiana.
Nov. 28, 1863	E. B. Fuller .....	Tennessee.
June 20, 1864	William Fisher .....	Ohio.
Sept. 19, 1864	Fatman & Co. ....	New York.
Sept. 12, 1864	Fatman & Co. ....	Do.
Sept. 12, 1864	Fatman & Co. ....	Do.
May 3, 1864	S. Galloway .....	Louisiana.
Feb. 13, 1864	Patrick Gilfoy .....	Do.
Sept. 18, 1863	Ira Hardin .....	Arkansas.
Jan. 9, 1864	John Hallam .....	Tennessee.
Nov. 28, 1863	David Hall .....	Louisiana.
Nov. 4, 1864	W. L. Horton .....	Florida.
April 1, 1864	R. S. Innis .....	Illinois.
Oct. 16, 1863	J. H. Jarman .....	Tennessee.
Sept. 18, 1863	T. D. Knox .....	Do.
April 1, 1864	William B. King .....	Georgia.
Aug. 18, 1863	J. W. Leftwich & Co .....	Tennessee.
May 4, 1864	Sancho Lynch .....	Louisiana.
May 18, 1865	J. M. Latta .....	Florida.
Sept. 18, 1863	Miss Mary C. Lane .....	New York.
Feb. 6, 1864	R. J. Mathews and others .....	Do.
Nov. 30, 1863	Miss Kate Marcy .....	Louisiana.
Sept. 18, 1863	E. Mayer .....	Tennessee.
Sept. 26, 1863	J. E. Merriman .....	Do.
Nov. 28, 1863	A. N. Marcy .....	Louisiana.
Nov. 28, 1863	R. V. Montague .....	Do.
Sept. 18, 1863	E. Mayer .....	Tennessee.
May 3, 1864	L. D. Mayer .....	Do.
May 3, 1864	A. McBurney .....	Illinois.
Aug. 12, 1863	Northrop & Smith .....	Missouri.
Aug. 12, 1863	Northrop & Smith .....	Do.
Aug. 12, 1863	Northrop & Smith .....	Do.
Aug. 12, 1863	William Nichols .....	Mississippi.
June 9, 1864	C. Northrop & Co .....	Tennessee.
Sept. 29, 1863	George B. Peters .....	Arkansas.

B.—*Claims for cotton*—Continued.

Date.	Claimant.	Residence.
Mar. 4, 1864	J. F. Richey .....	Mississippi.
July 18, 1864	R. M. Robinson .....	Kentucky.
Dec. 29, 1863	C. Stoddart, jr., & Co. ....	Tennessee.
Dec. 1, 1863	Warren Shaw .....	Louisiana.
Feb. 1, 1864	Warren Shaw .....	Do.
May 3, 1864	Robert Stewart .....	Do.
Nov. 23, 1864	T. R. Sloan .....	Missouri.
July 6, 1865	Thomas Sweeny .....	Arkansas.
Nov. 28, 1863	H. B. Tibbetts .....	Louisiana.
Nov. 28, 1863	H. B. Tibbetts .....	Do.
Dec. 29, 1863	A. & J. Trounstine .....	Ohio.
July 2, 1864	John Turner .....	Arkansas.
Sept. 28, 1863	T. L. Van Fossen .....	Mississippi.
Aug. 26, 1863	Foley Vaughan .....	Tennessee.
Oct. 17, 1863	Mrs. Gracia Walton .....	Arkansas.
Oct. 17, 1863	A. G. Ward .....	Mississippi.
Feb. 8, 1864	Charles Warfield .....	Louisiana.
Dec. 11, 1863	S. B. Young .....	Kentucky.
Dec. 11, 1863	S. B. Young .....	Do.
Dec. 11, 1863	S. B. Young .....	Do.

*Cotton claims adjudicated.*

Oct. 7, 1866	A. H. Andrews <i>et al.</i> .....	Iowa.
April 7, 1866	W. W. Andrews, administrator .....	Arkansas.
Dec. 29, 1866	W. W. Andrews, administrator .....	Do.
Oct. 11, 1864	M. Benton .....	Louisiana.
	Mrs. A. A. Brabston .....	Mississippi.
May 18, 1866	Mrs. M. T. Bonham .....	Do.
Jan. 25, 1865	Colonel Barnard .....	Tennessee.
Aug. 15, 1865	O. H. Brewer & Co. ....	Iowa.
May 8, 1865	Brott & Davis .....	Louisiana.
Oct. 1, 1864	Jonathan H. Brown .....	Mississippi.
Nov. 19, 1864	Blatchford & Stone .....	Ohio.
April 22, 1864	George R. Bridges & Co. ....	Arkansas.
April 19, 1866	David Barrow .....	Louisiana.
Aug. 11, 1866	B. H. Buckner .....	Do.
Jan. 3, 1866	Mrs. Indiana Bass .....	Do.
Jan. 12, 1866	Mary T. Bonham .....	Mississippi.
Sept. 1, 1866	Joseph Botto .....	Do.
	Mrs. L. C. Ballard .....	
	Brindeau & Blanchard .....	
	E. W. Burbank .....	Louisiana.
	Rugher & Cones .....	
June 22, 1865	J. W. Black .....	Louisiana.
	George C. Benham .....	
Mar. 3, 1866	William Battersby & Co. ....	South Carolina.
May 12, 1866	Mrs. E. D. Bachelor .....	Louisiana.
Sept. 18, 1866	W. Brannan <i>et al.</i> .....	Alabama.
Mar. 17, 1866	R. M. Browning .....	Louisiana.
Nov. 14, 1864	C. H. Bland .....	Do.
May 9, 1866	Beall & Metcalf .....	Georgia.
May 24, 1866	William Bryce & Co. ....	New York.
	H. H. Beach .....	
Sept. 13, 1865	John Blevins .....	Tennessee.
Nov. 9, 1866	John Blevins .....	Do.
June 8, 1866	Madame Bertinatti .....	Louisiana.
Sept. 29, 1863	O. N. Cutler .....	Missouri.
Jan. 29, 1864	W. H. Cherry & Co. ....	Tennessee.
Jan. 26, 1864	J. J. Craig .....	Do.



*Cotton claims adjudicated—Continued.*

Date.	Claimant.	Residence.
Jan. 26, 1865	S. Clemens .....	West Virginia.
Jan. 8, 1867	Carson & Jones .....	
	Temple Clark and Henry Warren, adverse claimants..	Tennessee.
	A. C. Cloud .....	
	W. J. Cowan .....	
Oct. 3, 1864	Temple Clark .....	
Dec. 17, 1864	Temple Clark .....	Pennsylvania.
Dec. 23, 1864	Cowan & Dickson .....	Mississippi.
July 16, 1866	Carr, Glenn & Wright .....	
	A. F. Cramer & Co .....	
Nov. 16, 1866	A. F. Crawford .....	Texas.
	Cazenove & Co .....	
May 7, 1866	Cohen & Hertz .....	Georgia.
April 11, 1866	M. Cummings, executor .....	Do.
April 7, 1866	W. M. Cozart .....	
	Mrs. Mary Cassin .....	Alabama.
	Miss S. Camp .....	
	George H. Cheever, estate .....	
May 7, 1864	Lemuel Davis .....	Louisiana.
Dec. 11, 1863	H. L. Davis .....	Ohio.
	J. T. Douglas .....	
	S. DeBow & Co .....	Tennessee.
April 17, 1866	Joseph Day .....	Georgia.
	J. D. B. DeBow .....	
	D. Dupree .....	
Nov. 23, 1864	Charles W. Elliott .....	New York.
Dec. 27, 1866	Mrs. A. F. Elliott .....	Louisiana.
	H. Escoubas .....	
Feb. 20, 1867	J. H. Echols .....	Mississippi.
	E. H. Forsyth .....	
Jan. 25, 1864	P. B. Fouke .....	Illinois.
Feb. 13, 1864	J. W. Farr .....	Missouri.
Feb. 23, 1864	Sarah Foley .....	Mississippi.
May 25, 1864	C. C. S. Farrar .....	Tennessee.
	Mrs. Susan Fletcher .....	
May 17, 1866	W. Freeman .....	Louisiana.
Dec. 5, 1866	Rev. Dr. Fuller .....	Maryland.
	D. L. Ferguson .....	
	P. A. Fennerty .....	
	Mrs. M. F. Fort .....	
Aug. 27, 1863	J. W. Green .....	Indiana.
Sept. 2, 1864	Thomas Gillon .....	Mississippi.
June 2, 1865	Griggs & Thing .....	Do.
Aug. 12, 1864	M. Grundy .....	Louisiana.
July 13, 1865	Mrs. M. L. Graves .....	Mississippi.
Nov. 14, 1864	G. W. Graham & Co .....	Louisiana.
Jan. 27, 1864	J. M. Griggs .....	Arkansas.
	J. C. Greely .....	
	Juliet Glass .....	
Nov. 28, 1866	W. H. Gill .....	Texas.
Mar. 10, 1866	B. F. & E. George .....	Louisiana.
Dec. 4, 1865	F. M. Gilmer, jr .....	Alabama.
Feb. 28, 1865	Mrs. L. F. Gibson .....	Louisiana.
	J. G. Harrison .....	
Dec. 17, 1863	N. W. Halligan .....	Tennessee.
Sept. 15, 1866	W. Hawes Harris .....	Louisiana.
Oct. 19, 1866	W. Hawes Harris .....	Do.
	W. F. Harrell .....	
Nov. 14, 1864	W. R. Hodges .....	Louisiana.
Nov. 14, 1864	E. J. Hart & Co .....	Do.
Mar. 31, 1866	J. F. Huddleton <i>et al</i> .....	Tennessee.
	S. Houston .....	
July 16, 1866	Theo. J. Hughes .....	Alabama.

*Cotton claims adjudicated—Continued.*

Date.	Claimant.	Residence.
July 16, 1866	Thos. Hobson .....	England.
April 27, 1866	N. H. Harrison, estate .....	Alabama.
Oct. 25, 1866	D. Hoxie .....	Arkansas.
	Mrs. T. B. Hoyt .....	
Mar. 20, 1865	Ezra W. Ingles .....	Louisiana.
Dec. 11, 1863	William Jeans .....	Tennessee.
	H. M. James .....	
	Thomas W. Johnson .....	
	James River Manufacturing Company .....	
April 19, 1866	J. H. Jarrott .....	South Carolina.
Feb. 27, 1864	A. Kellogg .....	Illinois.
Nov. 14, 1865	Kahnweiber Brothers .....	North Carolina.
	Keen & Scott .....	
Nov. 7, 1864	Lazare & Webb .....	New York.
	Michael Lynch .....	
June 18, 1866	A. E. Lunsford .....	Missouri.
	Mrs. C. M. Locke .....	
	Elizabeth Lanier .....	
Nov. 1, 1866	W. G. Lightfoot .....	Georgia.
	W. G. Lightfoot .....	Do.
Jan. 8, 1866	E. J. Lide .....	South Carolina.
April 30, 1866	Louisiana State Bank .....	
July 11, 1865	George W. Lane .....	Maryland.
	G. B. Lamar .....	
Feb. 14, 1865	V. T. Meredith .....	Mississippi.
Aug. 29, 1864	J. J. Michie .....	Louisiana.
Aug. 9, 1864	R. V. Montague .....	Do.
Feb. 24, 1864	H. McLearn .....	Mississippi.
	Captain McMillan .....	
Oct. 14, 1863	Hugh Maher <i>et al</i> .....	Illinois.
July 28, 1865	J. G. McBain .....	Tennessee.
Jan. 24, 1865	Edw. Maxwell <i>et al</i> .....	Louisiana.
Nov. 14, 1864	A. S. Mansfield .....	Do.
	James Meagher .....	
Dec. 10, 1866	R. Mure & Co .....	South Carolina.
	E. W. Massey .....	
Dec. 27, 1866	M. Malsch .....	Texas.
Jan. 2, 1866	Mrs. E. Miller .....	Mississippi.
	A. McDonald .....	
	Mrs. F. A. Moore .....	
	James McDaniel .....	
	Abra Navara .....	
Nov. 30, 1863	Mrs. L. D. Neff .....	Arkansas.
Aug. 26, 1864	Paul Butler & Co .....	Ohio.
May 13, 1864	J. P. Peabody .....	Wisconsin.
Nov. 11, 1865	Fergus Peniston .....	Louisiana.
June 27, 1866	W. A. Pattison .....	Do.
May 11, 1866	P. Poullaine & Co .....	Georgia.
May 8, 1866	T. F. Persons, est .....	Do.
	Pierce & Maxwell .....	
	I. A. Roberts, administrator .....	
	W. P. Rambert .....	
Jan. 28, 1865	Clay Roberts .....	Alabama.
Nov. 30, 1863	Mrs. Ricketts & Bell .....	Louisiana.
Dec. 31, 1863	C. C. Row .....	Ohio.
July 13, 1864	Harriet A. Robb .....	Arkansas.
	M. Ross .....	
	Alice Roby <i>et al</i> .....	
May 10, 1865	William Riddle .....	Louisiana.
	A. Richards <i>et al</i> .....	
Aug. 22, 1866	Patrick Robinson .....	Alabama.
	M. Ross .....	
	John Smith .....	
	W. A. Scott .....	

*Cotton claims adjudicated—Continued.*

Date.	Claimant.	Residence.
Aug. 22, 1866	W. A. Scott.....	Alabama.
	William M. Smith.....	Do.
Sept. 19, 1866	Warren Shaw.....	Louisiana.
	W. F. Smith.....	Mississippi.
	Warren Shaw.....	Louisiana.
Nov. 7, 1865	Samuel Snapp.....	Tennessee.
June 29, 1865	W. P. Suggs.....	
	Mary E. Stout.....	
May 3, 1864	Robert Stewart.....	Louisiana.
	James Stewart.....	
	G. P. Swift.....	Alabama.
May 2, 1866	Paran Stevens <i>et al</i> .....	Do.
	J. M. Stark.....	Do.
Oct. 23, 1866	H. Spanier.....	Louisiana.
April 18, 1866	Saloman Root & Co.....	New York.
Aug. 27 and Dec. 28, 1864	H. B. Tibbatts.....	Louisiana.
	Samuel Templeton.....	
Aug. 29, 1864	E. G. Thompson.....	Ohio.
June 30, 1865	O. Tadini.....	South Carolina.
Oct. 8 and 27, 1865.	G. W. Turner and Clark Wright & Co., adverse claim- ants.	Louisiana.
	G. W. Turner and J. H. Haworth, adverse claimants...	La. and Ohio.
	J. C. Terry.....	
April 9, 1866	W. F. Turner.....	Mississippi.
May 3, 1866	John M. Trimble.....	Tennessee.
Dec. 14, 1866	A. E. Tracy & Co.....	Arkansas.
April 7, 1866	W. H. Thornton <i>et al</i> .....	Alabama.
	John M. Tate, est.....	
	M. Tully.....	
	James Thomasson.....	
	W. W. Withenbury.....	
Feb. 25, 1865	Mrs. M. Womack.....	Louisiana.
July 16, 1863	Miss Worcester.....	Do.
Sept. 17, 1864	Jane S. Whayne.....	Arkansas.
March 8, 1865	J. M. Wiggin.....	Tennessee.
April 6, 1864	R. R. Wilson.....	Mississippi.
	J. G. Wyley.....	
	Webb & Lazare.....	New York.
Dec. 18, 1865	John P. White.....	Tennessee.
	Victor F. Wilson <i>et al</i> .....	
Feb. 19, 1864	Mrs. M. Ward.....	Arkansas.
July 24, 1866	John S. Williams.....	Illinois.
Jan. 19, 1866	Watts, Crane & Co.....	New York.
Dec. 14, 1865	John W. Williams.....	South Carolina.
	B. F. Williams.....	
	F. H. Wild.....	
June 14, 1866	Jerre Walters <i>et al</i> .....	Alabama.
	Woods & Gardner.....	
Sept. 15, 1863	J. M. Walton.....	Alabama.
April 27, 1863	D. E. Wilson.....	Mississippi.
July 10, 1866	Charles Whitlock.....	Virginia.
April 27, 1866	S. Williamson.....	South Carolina.
	J. M. Wells.....	Louisiana.
	A. Waddel.....	

*Cotton claims adjusted.*

Date.	Claimant.	Residence.
Nov. 6, 1865	Kellinger & Weatherby .....	North Carolina.
May 15, 1865	Wilson, Gibson & Co .....	New York.
May 30, 1865	Sanford Erwin .....	Tennessee.
Nov. 28, 1866	A. H. Collister .....	Michigan.
Dec. 20, 1866	Dwight & Gill .....	Mass. and Tenn.
Dec. 16, 1865	B. Jolly .....	Alabama.
Jan. 25, 1867	C. A. Weed & Co .....	Louisiana.
Dec. 11, 1866	A. H. Lazare .....	Missouri.
Dec. 18, 1866	Shepard, Parkman & Co .....	Tennessee.
	John Duncan .....	Mississippi.

## C.

TREASURY DEPARTMENT, *February 27, 1866.*

GENTLEMEN: It appears, after a careful consideration of all the papers submitted and all the questions involved in the matter of your application for the release of and permission to ship certain two thousand and seventy-eight (2,078) bales of cotton bought by you, on foreign account, during the existence of the late rebellion, that there is not adduced sufficient evidence to warrant the government in holding the same as captured property, on account of its having been purchased for the purpose of transporting it through the blockade lately established by the authorities of the United States, and thereby violating the laws thereof and aiding and abetting the rebellion. I have, therefore, decided to release the said cotton, to wit:

634 bales at Augusta, Georgia,  
582 bales at Macon, Georgia,  
297 bales at Butler, Georgia,  
72 bales at Americus, Georgia,  
31 bales at Albany, Georgia,  
13 bales at Montezuma, Georgia,  
437 bales at Spartansburg, South Carolina,  
12 bales at Columbia, South Carolina,

or wherever the same may be found. And I do hereby release the said cotton and restore the custody thereof to you, with permission to ship and dispose of the same as you may desire without hindrance or molestation on the part of this government, or any of its agents or representatives; except that it is understood, and you will please to take notice, that in releasing and surrendering the custody of said cotton, no right or claim to it or the proceeds thereof which the government may have, or at any time choose to assert, under the provisions of the act of Congress, approved August 6, 1861, is in any wise waived or prejudiced.

Subject to this understanding, all agents or officers of this department having any of the cotton named above in their possession or custody, or under their control, are hereby authorized and directed to deliver the same to you or your duly empowered attorney: *provided*, you first pay, or cause to be paid, all costs, charges, or expenses paid or incurred by them in any way on account of said cotton, and execute and deliver, also, to any agent from whom any of it is received, a certificate of probable cause of seizure, which will protect and hold harmless the government and all its officers and agents against any claim for loss or damage sustained on account of its seizure, detention, or removal.

Any agent or officer taking any action under this letter will retain a certified copy as his authority therefor, and promptly report to the department, in detail, all things done by him in the premises.

Please acknowledge, in writing, the receipt hereof, signifying your acceptance or non-acceptance of the terms herein stated.

Respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Messrs. GIBBES & Co., *Charleston, S. C.*

P. S.—The foregoing will apply also to—

46 bales at Augusta, Georgia, and  
66 bales at Union district, South Carolina,

(or wherever the same may be found,) claimed as the private property of Messrs. Gibbs & Co.

H. McCULLOCH,  
*Secretary of the Treasury.*

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D.

TREASURY DEPARTMENT, *September 6, 1865.*

SIR: Believing that property of that character does not fairly come within the meaning of the acts of Congress relating to captured and abandoned property, my desire is that, if there are any articles of household furniture, books, or personal or family relics in your possession, or under your control, they be restored to all loyal owners, or those who have availed themselves of the benefits of the President's proclamation of amnesty, and who are not excepted from, or who have obtained from him, a special pardon, on the payment by them of all expenses incurred in their collection and care, and the execution of a proper bond of indemnity.

Until otherwise directed, no sales of this class of property will be made; and if any such should be in your hands, when you close up the affairs of your office, you will turn it over, to await further instructions from me, to a collector of customs at the most suitable place or places in your agency, taking his official receipt therefor.

Respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

O. H. BURBRIDGE, Esq.,

*Sup'g Special Agent Northern Division, 4th Agency, Texas.*

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E.

ATTORNEY GENERAL'S OFFICE, *April 24, 1866.*

SIR: I have the honor to acknowledge the receipt of a bundle of papers, containing the claim of Colonel John S. Williams for three hundred and thirty-four bales of cotton, seized by the treasury agents, with an indorsement that they are for my consideration.

As no legal question has been asked, I suppose it is intended that I should express an opinion as to the legality and propriety of holding the cotton seized by the treasury agents. The facts, as disclosed in this bundle of papers, are substantially as follows:

The three hundred and thirty-four bales of cotton were the property of Joseph

P. Billups. When Billups was from home, having left authority with no one to sell and dispose of this cotton, his father assumed authority to make a contract with the so-called confederate government for it. Under the contract so made by the father, the cotton was entered upon the books of the confederate government as the property of that government. Joseph P. Billups, as soon as informed of this pretended contract by his father, repudiated and denied it. No agent of the confederate government ever had possession of the cotton. It continued to remain in the possession and under the control of Joseph P. Billups, or his agents.

After the fall of the so-called confederate government, and the surrender of its armies, and after Joseph P. Billups had been pardoned by the President, the treasury agents seized the cotton as the property of the confederate government, because they found it entered upon the books of that government. Prior to this seizure by the treasury, Billups had sold the cotton to Colonel John S. Williams.

This cotton was not captured by the military forces of the United States and turned over by them to the treasury agents, nor was it seized by the treasury agents as abandoned property; but the treasury agents took it, believing it to be the property of the confederate government.

If it was in truth the property of the confederate government, the treasury agents were right in seizing it; and *prima facie*, it was their property. But if it was not the property of the confederate government, if it was not abandoned property, and if it had not been captured by the armies of the United States, the agents of the Treasury Department would not do right in holding the cotton. The agents, though right in making the seizure, cannot be justified in holding on to the property, after it is made manifest by the proofs, as in this case, that the cotton did not fall within any of the predicaments before mentioned.

As the cotton was not the property of the so-called confederate government, had, in fact, never become a part of the common fund upon which the rebellion rested, and was neither abandoned nor captured, I think it should be restored.

With highest respect, &c., I have the honor to remain,

JAMES SPEED,  
*Attorney General.*

The PRESIDENT.

*Correspondence in relation to cotton cases in the Court of Claims.*

TREASURY DEPARTMENT, *July 1, 1867.*

SIR: I have learned informally that a judgment has been rendered in favor of the plaintiff in a number of the causes familiarly designated as the "cotton cases" in the Court of Claims, and I have seen in the newspapers the opinion rendered therein by the chief justice of the court on the 25th ultimo, but I am without any knowledge as to the character of the evidence adduced on either side during the trial.

I have to request, therefore, that you will furnish me with a copy of all the papers in each of the cases referred to; and, with a view to the full protection of the public interests in the premises, I have to request, also, that I may hereafter be furnished, *before judgment is rendered*, with a copy of all the papers in any case the subject-matter of which originated in this department.

Very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

SAMUEL H. HUNTINGTON, Esq.,  
*Chief Clerk Court of Claims, Washington, D. C.*



## COURT OF CLAIMS,

*Washington, July 3, 1867.*

SIR: Your communication of the 1st instant has been received, in which you state that you have learned "informally" that judgments have been rendered in the Court of Claims in favor of the claimants in a number of causes familiarly designated as the "cotton cases," that you have seen the opinion of the chief justice in the newspapers, and that you are "without any knowledge as to the character of the evidence on either side during the trial," and accordingly you ask to be furnished with a copy of all the papers in each of the cases referred to; and with a view to the full protection of the public interests you further ask that you may hereafter be furnished, before judgment is rendered, with a copy of all the papers in any case the subject-matter of which originated in your department.

The court not being in session, I have submitted your letter to the chief justice, and he instructs me to say that your request for the papers and evidence in the "cotton cases" will be cheerfully complied with, and they are herewith transmitted. But as the request which you make under this head, especially when coupled with the added request that you be *hereafter* furnished with all the papers in every case where subject-matter originates in your department, *before judgment is rendered by the court*, may seem to imply some delinquency on the part of the court or its officers in not having furnished you with such information beforehand, I have to say, both for the court and its clerks, that they are conscious of no dereliction of duty in this respect. You have been regularly furnished during the last year with a copy of every petition filed in this court, where the subject-matter originated in your department, and every such petition has been transmitted with a request that you would cause "all information known to, or on file in, your department, which may be necessary to protect the interests of the government, to be transmitted to this office, the same being duly authenticated under the seal of the department."

If, as you state, you have no knowledge of the evidence on *either* side in the cases already decided, it must be because in the multiplicity of your official duties you could not give your personal attention to the repeated calls which have been made and answered in them by the department over which you preside. These answers of the Treasury Department have been used as evidence by both parties in the trial of these causes.

I am requested further to say that the law organizing the Court of Claims has provided solicitors whose duty it is to prepare and present the cases in behalf of the United States. They are not responsible to, nor under the direction and control of, the court, except so far as their immediate conduct and bearing in the presence of the court are concerned. It is, however, presumed that officers charged with high duties and responsibilities of this kind will not be unmindful, much less neglectful, of the public interests committed to their care, and that they will avail themselves of all the evidence and information which any of the departments may afford to protect the interests of the United States in this court. Should their conduct, however, be otherwise, and they found wanting either in vigilance or competency, the remedy is in the hands of the President, by their removal and the appointment of others in their stead.

Such being the relation which the solicitors bear to the court and to the government, the chief justice suggests that the most effective way for the heads of the various executive departments and bureaus to give full protection to the public interests in the premises is to co-operate with the solicitors in furnishing to the court all the facts and evidence in the respective cases that may bear in favor of the government.

So far as the communication may seem to claim or imply any right in the head of any executive department to direct, supervise, or control the proceedings



of the court, or reverse its action in any case, I am further instructed to suggest that such claim must be founded in a misapprehension of the duties and functions of this tribunal. These are in their nature strictly judicial. The court is constituted by Congress as part of the judiciary of the nation, and its proceedings and judgments are not subject to revision or review anywhere except by appeal to the Supreme Court of the United States. In the "cotton cases," so far as they have been decided in favor of the claimants, the proof in each case was made "to the satisfaction of the court," in regard to the claimant's "ownership of the property, of his right to the proceeds thereof, and that he had never given any aid or comfort to the rebellion." These proofs were all taken upon notice to, and cross-examination by, the solicitors of the United States, before competent magistrates, and under the sanction of an oath. On the hearing and argument of the cases the Treasury Department was, by leave of the court, ably represented by the Hon. Edgar Cowan as special counsel, so that it was hoped the department would have been apprised officially and professionally, not "informally," of the nature and character of the evidence and of the proceedings generally in the cases.

The court will be gratified to have the assistance and co-operation of the department in giving full protection to the public interests, but as the court is now constituted it knows of no other method in which it may be efficiently done except through the solicitors of the United States.

I have the honor to be, with great respect, your obedient servant,  
**SAMUEL H. HUNTINGTON,**  
*Chief Clerk Court of Claims.*

Hon HUGH McCULLOCH,  
*Secretary of the Treasury.*



GREENSBURGH, PA., *July 9, 1867.*

DEAR SIR: I see by the newspapers that the Court of Claims have ruled some cases in favor of the claimants of captured cotton. I do not know what particular cases are thus favored, or on what grounds the court puts the decision, but I am more and more convinced that "no one who submitted to the Confederate States, obeyed their laws, and contributed to support their government, ought to recover under the statute," because it is impossible for such a one to show that he did *not* give aid and comfort to the rebellion. The question of "aid and comfort" can only arise in the case of those who did not reside within the circumscribed limits of the enemy's country, for all within it, and submitting as citizens do generally, are themselves enemies, and we made their property (whether right or wrong) the subject of capture, no matter what might have been their disposition towards us. Some of those whose property was condemned in the prize cases were as loyal as any of the cotton claimants, and yet it was of no avail.

We might as well in equity restore to a foreign enemy property captured in war, on his showing that he was of opinion that our cause was a just one and that his own government was in the wrong, as to restore this cotton, inasmuch as we put the confederates on the same footing as public enemies all through the contest, and to discriminate in favor of the present claimants is not only absurd but unjust, if the statute will fairly bear any other construction. I was as much opposed to the policy of making private property on land subject of prize and capture in the war as any one, but it was done, and there are thousands of those who suffered from it who have a far higher equity demanding indemnity than the plaintiffs in the cotton cases, not one of whom, so far as I know, ever did anything more than wish us well, while in all other respects they

behaved just as the great mass of the southern people did. Their loyalty to us could not be imputed to them as a crime by the rebels, as they were careful not to manifest it by overt acts. Nor can we, for the same reason, look upon it as being very meritorious.

Of course you will direct appeals to be taken to the Supreme Court.

Yours truly,

EDGAR COWAN.

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

GREENSBURGH, PA. *July 25, 1867.*

DEAR SIR: I received a day or two since the opinion of the Court of Claims in the cotton cases, along with the order, decree, or judgment, (for I cannot tell what it ought to be called,) declaring the plaintiff's right to recover; and I have considered with some care the question whether an appeal lies to the Supreme Court from this finding, or whether it is final and conclusive, and binding upon your department, so that it can be enforced against you by the process of the court.

A judgment or decree is that formal determination of a court which it has power and authority to execute by compelling the obedience to it of the party against whom it has decided. Sometimes matters are submitted to courts, and upon which their action is not final and conclusive, and which cannot be enforced without something more is done by some other tribunal or functionary. Such were the findings of the Court of Claims under the act of February 24, 1855, which could only become effective by an act of Congress providing for the payment. So, also, at first under the act of March 3, 1863, their judgments were of no avail unless the Secretary of the Treasury first estimated an appropriation for them and Congress passed the same.

In both these instances there was no appeal, because the *adjudication was not final and conclusive*, but requiring more to be done to secure the fruits of it.

But the same act of 1863 had provided that there should be an appeal in all cases when the sum in controversy was more than \$3,000; but the Supreme Court refused to entertain them, for the reasons I have stated.

To remedy this, and make the fifth section operative, which allowed the right of appeal, Congress repealed the fourth section, requiring the estimate of the Secretary of the Treasury, so that the general law now stands, in the language of that fifth section, declaring "*that either party may appeal to the Supreme Court of the United States from any final judgment or decree which may hereafter be rendered by the said court in any case,*" &c. This was 3d March, 1863, and on the 12th March, 1863, was passed the act in question.

Did this latter act authorize the court to enter a final judgment or make a final decree? It authorized the court to entertain the claim, to hear the proofs, and, if satisfied with them, to declare (I suppose understood) the claimant's right to be paid. The whole is exceedingly careless and inartificial, and it is hard to be certain of a right construction; but I think the intent was not only that the court should fix the plaintiff's right to *demand* his claim, but that he should actually *receive* the proceeds. If this view is correct, then the judgment is a final judgment, and you may appeal from it. If, on the other hand, it only gives the claimant the right to *demand* a certain sum at the treasury, then it is optional with you to refuse payment, and in order to compel you to make it, the plaintiff would have to go back to the court and get a judgment, which the court *could enforce* by process; and if he got one, that would clearly be a *final one*, and from which you would have an undoubted right of appeal.

The only difference between the two theories is in the length of the horns of the dilemma, and if I was a claimant I should prefer the shorter, and insist that the first judgment was the final one.

But it may be said that the act of 12th March, 1863, was in the nature of a special submission of these cases to the Court of Claims, and that as there is no provision in it for an appeal, therefore none will lie; and this would be true if it was a submission *by the parties*, because, where parties agree to submit their difference to court, or referees, and do not stipulate for a writ of error, or an appeal, the law presumes they did not intend a review, and will not allow the loser another trial. But no such presumption arises where the law extends the jurisdiction of an inferior court over new subject-matters and new claims in general terms, or, as in this case, merely refers to the proper court a new class of claims, over which it would have had jurisdiction without any such reference. For, it will be observed, that if the act of 12th March, 1863, had not mentioned the Court of Claims at all, the claimants would have been obliged to resort to that court for redress under it, the same as any other persons having claims *founded upon* an "*act of Congress*," over which it has a general and unlimited jurisdiction. (See act of 1855 and act of 3d March, 1863.)

I can only say, in conclusion, that I have no doubt about the way the law ought to be construed; yet with judges, all overtasked and overworked, I can readily foresee they will not look upon appeals from the Court of Claims with favor, and that they will throw them out whenever they can. Still the magnitude of the interests involved may incline them to patience, and your duty, I think, is to appeal and let them quash if they will. Congress will come to the rescue, from appearances, and the treasury may yet be saved.

Yours truly,

EDGAR COWAN.

Hon. HUGH McCULLOCH.

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TREASURY DEPARTMENT,  
*Comptroller's Office, July 30, 1867.*

SIR: I return herewith the opinion of Mr. Cowan on the right of appeal from the judgments of the Court of Claims in the cotton cases.

Whether the court renders a judgment or only expresses an opinion, depends upon the meaning [with which the word "receive" is used in the third section of the act of March 12, 1863. I suspect this word is a misprint, or that an error occurred in the enrolment of the act, by which the word "receive" was substituted for the word "recover."

The meaning of these two words, as well as their orthography and origin, is somewhat alike. To "recover," in judicial proceedings, implies something compulsory, whereas to "receive" implies voluntary action on the part of the person of whom the thing is received. If the word "receive" is to be construed as having, in this act, the same meaning as the word "recover," then the judgment is a final one, and the duty of the Secretary, in respect to its payment, is the same as in the case of an ordinary judgment of the court; but if the word "receive" is to have its usual acceptation, the Secretary is not required to pay, and is, perhaps, not authorized to pay the amount found by the court until an appropriation shall have been made for that purpose.

I recommend an appeal to the Supreme Court, that the questions now embarrassing the department may be authoritatively settled. Whatever may be the decision of the court, the Secretary will be advised of his powers and duties in these cases. If the court hold that the judgment of the Court of Claims is final and conclusive on the department, the appeal will, doubtless, be entertained

and a review had; whereas, if it should be held that a final judgment is not authorized, the Secretary will be relieved, and the responsibility will rest upon Congress.

I am, very respectfully,

R. W. TAYLER, *Comptroller.*

Hon. H. McCULLOCH,  
*Secretary of the Treasury.*

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TREASURY DEPARTMENT, *August 1, 1867.*

SIR: Herewith please find enclosed the opinion of the honorable Edgar Cowan, special counsel of the Treasury Department, in relation to the question whether an appeal of the several cotton cases should lie to the Supreme Court of the United States from the Court of Claims, the latter court having rendered judgment for a large amount of money against the United States; also the opinion of R. W. Tayler, esq., Comptroller of the Treasury, upon the same subject.

Having carefully considered these cases, and believing that they should receive the fullest judicial investigation and review, as a protection to the future action of the department, I have to request that you will please take the necessary steps to appeal from the judgments rendered in the Court of Claims to the Supreme Court of the United States at an early day as possible.

Very respectfully,

HUGH McCULLOCH,  
*Secretary of the Treasury.*

ELI P. NORTON, Esq.,  
*Solicitor of the Court of Claims.*

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TREASURY DEPARTMENT, *August 26, 1867.*

SIR: Referring to my letter to you of the 1st instant, transmitting the opinion of honorable Edgar Cowan, special counsel, and also of R. W. Tayler, esq., Comptroller of the Treasury, in relation to the appeal of the several cotton cases in the Court of Claims to the Supreme Court of the United States, I have to request that you will at your earliest convenience inform me what action has been taken by you in reference to a motion to the Court of Claims for an appeal, and how said motion, which I am unofficially informed has been made, has been received by said court, and what further steps you propose to take to enforce the desired appeal.

I enclose herewith a copy of an additional opinion of the Comptroller of the Treasury, to which I desire to call your attention, especially to that point argued by him as to the manner in which the amounts of net proceeds of sales of the cotton should be estimated or ascertained.

Very respectfully,

HUGH McCULLOCH,  
*Secretary of the Treasury.*

ELI P. NORTON, Esq.,  
*Solicitor of the Court of Claims,*  
*Washington, D. C.*

UNITED STATES COURT OF CLAIMS, SOLICITOR'S OFFICE,  
*Washington, D. C., August 29, 1867.*

SIR: I had the honor to receive yesterday your communication dated the 26th instant, in which you refer me to the opinions of the Hon. Edgar Cowan and R. W. Tayler, esq., Comptroller of the Treasury, and request to be informed how the motion for an appeal of the cotton cases has been received by the Court of Claims. and as to what further steps I propose to take to enforce the desired appeal. My attention is also especially called to that portion of the opinion of the Comptroller, under date of the 24th instant. in which he states the manner in which the amounts of net proceeds of sales of *cotton* should be estimated or ascertained.

I have the honor to state that on the 12th instant I made a motion before the Court of Claims for the allowance of an appeal in the cotton cases. It was refused. The court, the chief justice and Judge Peck present, stated that an opinion would be filed with the court, setting out their reasons at large; but stated that the appeal was refused because they regarded their jurisdiction as a special one in this class of cases, and that their findings did not come within the meaning of the fifth section of the act of March 3, 1863, granting appeals.

If the decision of the court is to be regarded as a *judgment* or *decree*, the government is clearly entitled to an appeal, and the court is wrong. If it is neither, but a mere finding of facts for the information of the Secretary of the Treasury, it loses entirely the character of a mandate of a court, and its legal effect depends upon the construction which the Secretary of the Treasury may place upon the law under which the court has acted. For instance, if the Secretary of the Treasury shall regard all cases brought after the 1st of June, 1867, barred by the statute of limitations, he might, and perhaps should, disregard entirely the findings of the court.

The mode of enforcing an appeal from an inferior United States court to the Supreme Court is by mandamus; but I think it better not to resort to that mode until Congress shall have had an opportunity to act upon the matter.

I cannot concur in the opinion of the Comptroller under date of the 24th instant. If the decision of the court is not a judgment or decree for money, it not only is not appealable, but it has no binding force whatever. The statute provides for an action in the Court of Claims for the proceeds of cotton.

An action involves the idea of a judgment, and in these cases it must be a judgment for the proceeds of the cotton.

In conclusion, I have to say that I do not think Congress intended to except the cotton cases from the right conferred in the act of March, 1863, of revision and appeal, nor to constitute the court in this class of cotton cases a mere master in chancery to ascertain certain facts upon which another tribunal or department is to found a judgment.

I am, very respectfully,

E. P. NORTON,  
*Solicitor of the Court of Claims.*

Hon. H. McCULLOCH,  
*Secretary of the Treasury.*

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WASHINGTON, D. C., *August 13, 1867.*

SIR: We transmit herewith certified judgments of the Court of Claims in the following cases, in all of which we are attorneys of record, and hold powers of attorney, duly executed, authorizing us to collect the claims, viz:

1. Robert Floyd *vs.* The United States.

Ex. Doc. 22—3

2. J. Smith Speed and David H. Davis *vs.* The United States.
3. Celestine Eslava *vs.* The United States.
4. John Silvey *vs.* The United States.
5. Robert H. McCroskey *vs.* The United States.
6. William Markham *vs.* The United States.

Numbers 1 and 2 are appealed to the Supreme Court of the United States, and are now filed for the purpose of drawing interest, in case they are affirmed, under the provisions of law.

The residue, viz, Nos. 3, 4, 5, and 6, are what are commonly called "cotton cases," decided under the third section of the act of March 12, 1863. These cases are now presented and filed for immediate payment, which is hereby formally demanded in each and every one of said cases, Nos. 3, 4, 5, and 6.

The Court of Claims on yesterday decided that this class of judgments are not subject to appeal to the Supreme Court.

Some question having arisen as to the necessity of further legislation, by way of appropriation of moneys to pay this class of judgments, we desire to call your attention to the second section of the act of Congress of March 12, 1863, which provides that the proceeds of captured and abandoned property must be paid into the treasury; and to the third section of the same act, which provides that claimants succeeding in the Court of Claims shall "receive" the net proceeds of their property.

This is an appropriation, and none further is needed. The claimants cannot "receive" the money arising from the sale of their property, unless you are authorized to pay it. This act not only authorizes, but requires you to do so, and is in itself an appropriation of a specific fund. We would further suggest, that in any view of this statute the question above suggested cannot practically arise until the annual appropriation for the payment of judgments of the Court of Claims shall have been exhausted, which is not yet the case.

Our powers of attorney in these cases will be exhibited to the First Comptroller or other proper officer, and filed in due form and proper season.

Very respectfully, your obedient servants,

HUGHES, DENVER & PECK,

*Attorneys for above-named Claimants.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

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TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,

*August 24, 1867.*

SIR: I herewith return the letter of Messrs. Hughes, Denver & Peck of the 13th instant, and the four copies of the record of the Court of Claims in certain "cotton cases" under the act approved March 12, 1863.

The record in the case of Celestine Eslava—and in each case it is substantially the same, save in names, numbers, dates, and amounts—states:

First, that the said Celestine Eslava has proved to the satisfaction of the court that she was the *bona fide* owner of one hundred and forty-one bales of cotton, mentioned and described in her petition.

Second, the same cotton was seized and captured on or about the — day of May, 1865, at Mobile, in the State of Alabama, by the officers and agents of the United States.

Third, that the same was sold in the manner provided by law, and the proceeds of the said sale, after deducting all lawful expenses attending the disposition of the same, were paid over into the treasury of the United States, where the same now remains, amounting to the sum of \$26,543 25.



Fourth, that she, the said Celestine Eslava, had never given aid or comfort to the recent rebellion waged against the United States.

Fifth, that she, the said Celestine Eslava, was and is legally entitled to the said net proceeds of said cotton as aforesaid to the amount aforesaid.

Sixth, and the same are accordingly awarded to her.

Seventh, then follows an order that the clerk of the court certify the "finding" to the Secretary of the Treasury "for payment of the amount therein contained and found due to the claimant."

In the first, fourth, and fifth points above stated, the court adhered to the law; but in my opinion in assuming to find and decide the other points and in awarding a sum of money, they went beyond their authority, and their decision on them is not final or authoritative.

In giving their opinion in these "cotton cases," the court say "the entire power of this court over this property or its proceeds and all their duties in reference to the same, are conferred and prescribed by this act." The first point was carried out by the seizure and sale and payment into the treasury of the proceeds.

The second, being simply questions of fact, are referred to this court for decision. We are to decide these things; first, that the claimant was the owner of the property seized and sold; second, that he is entitled to the proceeds; third, that he has never given any aid or comfort to the recent rebellion.

No question either of law or of fact other than these three was submitted to the court, and no power to find or assess amounts, render judgments, or make awards was conferred.

My opinion is that Congress intended to provide that the net avails paid into the treasury of property belonging to owners who had not aided the rebellion should be paid to them, being somewhat like a trust paid in the possession of the government, upon their establishing the facts of ownership, right to the proceeds, and that they had not aided the rebellion. And these three facts, nothing more, were to be proven to the satisfaction of the Court of Claims. This proof being made, the case stands like any other lawful claim upon the treasury for the payment of which Congress has provided. The amount will be ascertained in the usual way and paid by warrant drawn against the appropriate fund. They are not payable out of the appropriation to meet judgments of the Court of Claims, but upon the proceeds of the property set apart for that purpose by the act of March 12.

The law required the Secretary to keep accounts of the property seized and sold, and it is evident Congress intended to rely upon these accounts and not upon the findings of the court.

I am clearly of the opinion that, notwithstanding the finding of a sum by the court, the Secretary is not authorized to pay it should it exceed the net sum actually paid into the treasury. The latter must be the limit.

I am, very respectfully,

R. W. TAYLER,  
*Comptroller.*

The SECRETARY OF THE TREASURY.

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#### IN THE COURT OF CLAIMS.

CELESTINE ESLAVA AND OTHERS *vs.* THE UNITED STATES.

*In the matter of the application of the solicitor for the allowance of appeals in the "cotton cases."*

Opinion by CASEY, C. J. :

The solicitor for the United States has prayed the allowance of appeals in these cases to the Supreme Court of the United States. If I were in doubt



upon the right of appeal, I should be in favor of its allowance, and thus leave the Supreme Court to decide the question. But that court, by its rules and regulations, made in pursuance of the fifth section of the act of Congress approved March 3, 1863, requires an allowance of the appeal in the first instance by this court, or its presiding judge in vacation. This allowance was made necessary to prevent its records from being encumbered, or its attention and time occupied, with cases not subject to its revisionary jurisdiction. To meet this intention we must decide, in the first place, whether the appeal will lie. I am inclined to the opinion that our refusal or allowance is subject to the corrective power of the Supreme Court, where we err in our judgment on the matter.

In the present cases I am clearly of opinion that no appeal is provided by law. And my colleague, who was present at the hearing and argument on the application, fully coincides with me in that view.

The jurisdiction conferred by the act of March 12, 1863, on the Court of Claims to decide on the right of parties to the proceeds of captured and abandoned property, is special, exclusive, and final. When that act, as a bill, passed the houses of Congress, there was no law in existence allowing appeals from this court. That right was conferred by the fifth section of the act of March 3, 1863; and that right the Supreme Court held, in Gordon's case, was annulled or taken away by the fourteenth section of the same act, which impliedly conferred upon the Secretary of the Treasury a right or power of revision in estimating for their payment. This latter section was, however, afterwards repealed by Congress by the act of March 17, 1866, and the right of appeal asserted in clear and distinct terms.

The act of 12th March, 1863, was passed by the two houses of Congress on the same day that they passed the act of 3d March, 1863, reorganizing the Court of Claims. There is nothing in the debates or proceedings of Congress which shows that the one was passed with any reference to the other, or any intention manifested that the special cases under this latter act should be subject to the general provisions of the former. In the act of 3d March, 1863, reorganizing this court, and the act of 24th February, 1865, the general powers and jurisdiction of this court are conferred and defined. The right of appeal given in the fifth section of the latter act had reference only to the classes of cases embraced in the general provisions and scope of these acts. But in the act of 12th March, 1863, Congress was framing and passing a law to meet a particular and special exigency. The jurisdiction given in the cases is specially limited and defined. It evidently was intended by Congress, in that act, to furnish a mode of trying and determining those cases which should be perfect and complete in itself. If an appeal, therefore, had been in the contemplation of Congress, it would have been provided for in the same act. Ours is a statutory court. All its powers, duties, and jurisdiction are derived from the express grants of Congress, or by necessary implication from the terms employed; and the right of appeal from its decisions must have the same warrant.

I have no doubt that where the general powers and jurisdiction of the court are extended by Congress to any class or kind of cases not theretofore embraced, without any special limitations or restrictions, the right of appeal would follow as a matter of course. But not so in regard to special cases. Congress itself has so interpreted the law of 1863. In the act of 9th May, 1866, conferring special jurisdiction upon this court to hear and determine the claim of any disbursing officer of the United States for relief from responsibility on account of losses by capture or otherwise, an appeal is given, in express terms, to the Supreme Court.

But it is on the special wording of the act of 12th March, 1863, that I base my conclusions: "Any person claiming to have been the owner of any such abandoned or captured property may, at any time within two years after the suppression of the rebellion, prefer his claim to the Court of Claims; *and on*

*proof, to the satisfaction of said court*, of his ownership of said property, of his right to the proceeds thereof, and that he has never given any aid or comfort to the present rebellion, to receive the residue of such proceeds after the deduction of any purchase-money which may have been paid, together with the expense of transportation and sale of said property, and any other lawful expenses attending the disposition thereof." This is the entire source and ground of our jurisdiction in these cases. The provision limits our inquiry into the specified matters of fact designated—the ownership and loyalty of the claimant. If these be established by "*proof, to the satisfaction of said court*," he shall receive the residue of such proceeds. The court is simply to inquire into the existence or non-existence of these facts. If the facts of ownership and loyalty are found in favor of the claimant, Congress has declared the law in plain and unequivocal terms: he shall receive the residue of the proceeds. Now, the Supreme Court of the United States, in the rules and regulations they have framed in regard to appeals from this court, as well as in the recent case of *De-Groot vs. The United States*, (not yet reported,) which was an appeal from this court, have held that the law only requires and authorizes them to review the law as laid down and applied by this court, upon the facts found by it; and that, as an appellate court, they will not review the finding of facts sent up from and by this court. If such is the law, there can be nothing to appeal from in these cases, for we have only decided upon the designated facts specially submitted by the law of Congress.

But what appears to me as conclusive is, that the act of Congress requires that these facts be proved "*to the satisfaction*" of this court. There is no other standard or measure of proof prescribed; and that designated is, in its very nature, incapable of being reviewed by any appellate tribunal, for the question would be, was the proof such as to satisfy the minds and consciences of the judges of the Court of Claims? Of this no other tribunal could judge, and, therefore, no appeal could lie from their decision. With every desire to give the widest range and most liberal construction to the appellate powers and jurisdiction of the Supreme Court over cases in this court, I feel bound by the plain letter of the law, as well as the interpretation given by the Supreme Court itself to the extent and limitations of its appellate functions, to say that no appeal can be allowed in these cases.

The appeals are, therefore, refused.

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#### IN THE COURT OF CLAIMS.

#### CELESTINE ESLAVA AND OTHERS VS. THE UNITED STATES.

##### *On motion for allowance of appeal.*

##### Opinion of Judge PECK :

I do not think the application for an appeal to the Supreme Court in these cases, which are commonly known as the "*cotton cases*," should be allowed.

At the time of the passage of the "*Act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States*," approved March 12, 1863, an appeal from the decisions of the Court of Claims was not authorized. Hence it is fair to presume that an appeal from the decision of this court, under the authority of the above entitled act, was not considered expedient, or it would have been provided for by it.

The second section of this act directs that the proceeds of captured and abandoned property shall be paid into the treasury of the United States.

The third section authorizes any person claiming to have been the owner of any such property, the proceeds of which have been paid into the treasury, at

any time within two years after the suppression of the rebellion, to prefer his claim therefor in the Court of Claims; and on proof to the satisfaction of the court of three facts, viz: of his ownership of the property, of his right to the proceeds thereof, and that he had never given aid or comfort to the then present rebellion, he should receive the residue of the proceeds of his property, after certain deductions therefrom to cover expenses had been made.

The proceeds of all the property are by the law placed in the treasury, there to remain, unless parties can establish by proof the above stated facts; when this shall be done, then the act directs that such part of the proceeds as arose from the sale of the property of a claimant so bringing himself within its protection should be restored to him.

This court is made the forum for the ascertainment of the facts necessary to be proven before the proceeds can be reclaimed. Facts only are to be ascertained; there are no legal questions involved; the statute is the law of all the cases, and that is so plain and direct as not to be the subject of doubt or question. The three facts being proved to the satisfaction of the Court of Claims, not to the satisfaction of any other court or person, the right of the owner of the property to its proceeds becomes fixed and absolute.

By the act the jurisdiction of the Court of Claims is not only made special and exclusive, but is also conclusive.

The judges of the Court of Claims do not require the instruction of the Supreme Court touching the sufficiency of proof. Each judge must determine for himself whether certain facts have or have not been proved to his satisfaction.

The policy or propriety of permitting any of the inhabitants of the insurrectionary States to recover the proceeds of their property, captured or abandoned, is a matter with which neither this nor an appellate tribunal has anything to do. The legislative department has considered that question and decided it; and decided, also, that the Court of Claims should be the place (probably with the expectation that abuses of the statute would thereby be prevented) where certain facts should be ascertained, preliminary to a restoration of the proceeds. This the court has done with careful scrutiny. Congress, from its general knowledge of the action of the human mind, doubtless knew that one judge might more easily become satisfied than another of any fact; and hence that body might have required that a satisfaction by proof should be produced on the mind of a score of courts before a right to a reclamation of proceeds should be recognized; but it did not; and as the enactment stands, the finding of this court must also stand, as in full compliance with it.

An appeal, if allowed, would vex the claimant without benefiting the government. Delay is not needed to procure the proceeds, for they are supposed to be in the treasury, where the law directs they should be placed, subject to the rights of the claimants when those rights have been ascertained.

Appeals from this court can only be heard in the Supreme Court, under such regulations as that court shall choose to make; and that court has already announced, by its rules, that it will not re-examine the evidence, but will only consider the ultimate facts or propositions which this court shall report to it as found in the nature of a special verdict. If an appeal were allowed, we should, of course, report that the three facts essential to a right of recovery have been found here. When this shall have been done, what good can result from allowing an appeal? The Supreme Court might say, if it should disregard its rules and re-examine the proofs, that we were mistaken in our conclusions; but it probably would not say, whatever its own convictions might be, that we had not been convinced.

The solicitor urges that by the fifth section of the act reorganizing this court an appeal lies in these, as in all other cases. I think not; but if so, the appeal is subject to existing regulations, and these preclude the idea that the appellate court will revise our judgments where facts alone are involved. But I am

satisfied that the jurisdiction conferred upon this court in these "cotton cases" is special; by which we are to ascertain certain facts, upon the finding of which the judgment necessarily follows, and our finding in the premises excludes any other conclusion.

The solicitor also insists that an appeal will lie under the provisions of the "Act in relation to the Court of Claims," approved March 17, 1866. This act relates, in matters of appeal, to judgments theretofore rendered, and has no bearing upon these cases.

What this court requires of the claimants, and the views taken by the judges of the act approved 12th March, 1863, are so well and clearly stated by the chief justice, in his opinion delivered when these judgments were announced, that I shall not repeat them. Nothing would be gained by doing so, nor can I add force or clearness to the statement.

	Judgments of court.	Proceeds found by the Treas. Dep't.
J. W. Carmalt .....	\$8,751 62	\$8,532 83
John Deighen .....	2,960 32	2,886 32
E. McCroskey .....	5,404 05	5,404 05
Joseph Purcell .....	18,703 64	18,236 05
Joseph Mertens .....	3,767 68	3,673 49
S. A. Courtenay .....	3,767 68	3,673 49
J. D. Geddings .....	1,101 04	1,180 77
P. Moran .....	10,630 24	10,364 49
P. J. Coogan .....	16,820 00	16,399 50
John Silvey .....	14,050 53	14,050 53
G. J. Cunningham .....	12,514 08	12,201 23
Celestine Eslava .....	26,543 25	25,849 27
Wm. Markham .....	3,602 70	3,602 70
Margaret Bond .....	2,823 75	2,749 92
	<u>* 131,450 58</u>	<u>128,804 64</u>

The above is a list of the judgments in the Court of Claims, and the amounts paid by the Secretary as the true proceeds of the specific property reclaimed.



MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING,

*In compliance with a resolution of the Senate of the 8th instant, information in relation to bill (S. 141) entitled "An act for the further security of equal rights in the District of Columbia," presented to him on the 11th day of December, 1867.*

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JANUARY 24, 1868.—Read referred to the Committee on the Judiciary, and ordered to be printed.

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*To the Senate of the United States :*

I have received the following preamble and resolution, adopted by the Senate on the 8th instant :

Whereas Senate bill numbered one hundred and forty-one, and entitled "An act for the further security of equal rights in the District of Columbia," having, at this present session, passed both houses of Congress, was afterwards, on the eleventh day of December, eighteen hundred and sixty-seven, duly presented to the President of the United States for his approval and signature ; and whereas, more than ten days, exclusive of Sundays, have since elapsed in this session without said bill having been returned either approved or disapproved : Therefore—

*Resolved*, That the President of the United States be requested to inform the Senate whether said bill has been delivered to and received by the Secretary of State, as provided by the second section of the act of the twenty-seventh day of July, seventeen hundred and eighty-nine.

As the act which the resolution mentions has no relevancy to the subject-matter of the inquiry, it is presumed that it was the intention of the Senate to refer to the law of the 15th September, 1789, the second section of which prescribes—

That whenever a bill, order, resolution, or vote of the Senate and House of Representatives, having been approved and signed by the President of the United States, or not having been returned by him with his objections, shall become a law, or take effect, it shall forthwith thereafter be received by the said Secretary from the President ; and whenever a bill, order, resolution, or vote, shall be returned by the President with his objections, and shall, on being reconsidered, be agreed to be passed, and be approved by two-thirds of both houses of Congress, and thereby become a law or take effect, it shall in such case be received by the said Secretary from the President of the Senate, or the Speaker of the House of Representatives, in whichever house it shall last have been so approved.

Inasmuch as the bill "for the further security of equal rights in the District of Columbia" has not become a law in either of the modes designated in the section above quoted, it has not been delivered to the Secretary of State for record and promulgation. The Constitution expressly declares that "if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law." As stated in the preamble to the resolution, the bill to which it refers was presented for my approval on the 11th

day of December, 1867. On the 20th of the same month, and before the expiration of ten days after the presentation of the bill to the President, the two houses, in accordance with a concurrent resolution adopted on the 13th of December, adjourned until the 6th of January, 1868. Congress, by their adjournment, thus prevented the return of the bill within the time prescribed by the Constitution, and it was therefore left in the precise condition in which that instrument positively declares a bill "shall not be a law."

If the adjournment in December did not cause the failure of this bill because not such an adjournment as is contemplated by the Constitution in the clause which I have cited, it must follow that such was the nature of the adjournments during the past year, on the 30th of March until the first Wednesday of July, and from the 20th of July until the 21st of November. Other bills will therefore be affected by the decision which may be rendered in this case—among them one having the same title as that named in the resolution, and containing similar provisions, which, passed by both houses in the month of July last, failed to become a law by reason of the adjournment of Congress before ten days for its consideration had been allowed the executive.

ANDREW JOHNSON.

WASHINGTON, D. C., *January* 23, 1867.



LETTER  
OF  
THE SECRETARY OF THE TREASURY,  
COMMUNICATING,

*In compliance with a resolution of the Senate of December 17, 1867, calling for copies of papers on file in the Third Auditor's Office in relation to claims and accounts in the quartermasters' department which have not been paid, copies of papers of John Bullfinch and others, owners of the brig Ocean Belle.*

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FEBRUARY 5, 1868.—Read, referred to the Committee on Finance, and ordered to be printed.

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TREASURY DEPARTMENT, *February 3, 1868.*

SIR: In answer in part to the following resolution of the Senate, dated December 17, 1867, viz:

*"Resolved, That the Secretary of the Treasury be requested to cause to be forwarded to the Senate copies of all papers on file in the office of the Third Auditor in cases of claims and accounts arising in the quartermasters' department where payment has not been made, on the adjustment of the accounting officer and the certificates of balance of the Second Comptroller, because of the non-issuance of a requisition, or where the requisition has issued for less than the sum certified"*—

I transmit herewith a letter from the Third Auditor of the 31st ultimo, addressed to me, together with copies of the papers in one case of the character referred to by the resolution, viz: that of John Bullfinch and others, owners of the brig Ocean Belle. As stated in the letter of the Third Auditor, copies of the papers in four similar cases will be furnished upon notification that the case herewith transmitted is insufficient for the purpose of the Senate.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. PRESIDENT *pro tem.* United States Senate.

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TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,  
*January 31, 1868.*

SIR: In accordance with your directions, I have the honor to transmit herewith copies of the papers in the case of the steamer Ocean Belle, required by resolution of the Senate of December 17, 1867, and to state that if copies of the papers on file in this office in the four other cases presenting similar features be required, they will be prepared and forwarded as speedily as possible.

Copies of the papers in all the cases would have been transmitted at the same

2 UNPAID CLAIMS IN QUARTERMASTERS' DEPARTMENT.

time, but for the delay that would occur in having them copied, as they are very voluminous; and I thought it best to present them as prepared to prevent that delay.

Very respectfully, your obedient servant,  
JOHN WILSON, *Auditor.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,  
*April 29, 1867.*

I certify that there is due from the United States to John Bulfinch and others, owners of the brig Ocean Belle:

For services of the brig Ocean Belle, under impressment, from August 12, 1865, when ordered from New Orleans to Galveston, Texas, to September 5, 1865, when discharged the service, being twenty-five days, at \$100 per day..... \$2, 500 00  
Also for cost of repairs of injuries from worming while in the service under impressment, (less the item of painting, \$190)..... 3, 263 05

Allowed on the papers filed herewith, and in accordance with the decision of Second Comptroller, dated April 27, 1867, concurring in report of Third Auditor of April 23, 1867, amounting to five thousand seven hundred and sixty-three dollars and five cents.. 5, 763 05

Appropriation "army transportation" payable as follows:

To John Bulfinch,  $\frac{5}{8}$ ..... \$3, 601 91  
To William Rogers  $\frac{3}{8}$ ..... 1, 080 57  
To Samuel B. Reed,  $\frac{2}{16}$ ..... 720 38  
To Edward P. Stinson,  $\frac{1}{8}$ ..... 360 19

All to the case of John Bulfinch, managing owner, present, as appears from the statements and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

JOHN WILSON, *Auditor.*

Hon. JOHN M. BRODHEAD,  
*Second Comptroller of the Treasury.*

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 29th day of April, 1867.

J. M. BRODHEAD,  
*Second Comptroller.*

APRIL 29, 1867.

W. Bulfinch is now in Washington, and will remain till he gets the draft. It had better, therefore, be sent to him here.

JOHN WILSON, *Auditor.*

[Indorsements.]

ADJUTANT GENERAL'S OFFICE, *May 18, 1867.*

Respectfully referred to Major General E. R. S. Canby, president Claims Commission.

E. D. TOWNSEND,  
*Assistant Adjutant General.*

QUARTERMASTER GENERAL'S OFFICE, *June 15, 1867.*

Respectfully returned to the Secretary of War, with request for \$2,800, in accordance with order of the Secretary of War of 15th instant. Indorsed on letters of Mr. J. Bulfinch of same date; a copy of which, with indorsements, is attached to this paper.

D. H. RUCKER,  
*Act'g Q. M. Gen'l, Bvt. Maj. Gen'l*

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,  
*April 23, 1867.*

SIR: I have the honor to transmit herewith the papers in the claim of the owner of the brig Ocean Belle, for services of the brig in transporting coal from New Orleans to Galveston, Texas, and for damages sustained by worming in the latter port, for your consideration and decision.

On the 23d June, 1865, the master of the brig agreed, by bills of lading signed with Commander Henry A. Adams, United States navy, to transport five hundred and six tons anthracite steamer coal from Philadelphia, to be delivered at the port of New Orleans to the senior naval officer, or to his assigns, at the rate of \$10 per ton, payable by the navy agent at Philadelphia to Workman & Co., agents of the owners.

The brig arrived at New Orleans with the coal, and Commodore Downs indorsed on the bill of lading, "Arrived at New Orleans, August 4, 1865. Discharged at New Orleans, August 9, 1865. 506 tons received in good order on within bill of lading." On this certificate Workman & Co., agents of the owners, received the stipulated freight money from the navy agent at Philadelphia. Up to this point there is no dispute or difficulty. But it appears that no actual discharge of the coal was made to the Navy Department, but that the latter, on the 9th of August, the date of the certificate of discharge, transferred the coal to the quartermasters' department, which took charge of the cargo at New Orleans on that day. After discharging three hundred and nineteen and a half tons, Acting Quartermaster Norton ordered the master of the brig to cease discharging any more, and to proceed to Galveston, Texas, and discharge the remainder.

To this the master alleges, as set forth more at length in his depositions, that he protested, stating his contract was only to New Orleans, which was completed, assigning as reasons for his unwillingness to go that his brig was new, single bottom, uncoppered, and that Galveston waters were so infested with worms that his vessel, in her condition, would be greatly injured by them. The quartermaster insisted on his going, and threatened, if he did not obey the order, to put another captain and crew on board and take her there. He yielded to these orders, was towed out from New Orleans by a tug-boat, and proceeded to Galveston, Texas, where she arrived on the 22d of August, and remained there coaling other vessels until the 5th of September, 1865, when she finished, and was discharged the service, Captain Atwood certifying, under oath, (he being quartermaster at the time,) that the detention was from no negligence or fault of the captain or crew.

After being discharged the service, the brig hauled off into an adjacent wharf to take in loading for return voyage, and on the 3d of October, 1865, the captain of the brig states, sailed for New York. Upon arrival at this port she was examined, and found to be badly wormed. She leaked badly, and repairs were made to the amount of \$3,453 05, which were deemed but temporary, as to put her in good condition would require, in the judgment of the witnesses, that she should be replanked, which would cost six or seven thousand dollars.

#### 4 UNPAID CLAIMS IN QUARtermasters' DEPARTMENT.

The owners claim that the delivery of the coal at New Orleans was a complete fulfilment of the contract under the bill of lading, and that the order of the quartermasters' department, sending her to Galveston, Texas, to discharge the remainder of the coal, was a seizure or impressment, rendering the government liable for a per diem compensation equal to the average daily pay earned under the bill of lading from Philadelphia to New Orleans, and to all consequences for injuries while serving as such impressed property.

They claim, therefore, for services from the time the brig left New Orleans until discharged at Galveston, at the rate of \$100 per day .....	\$2, 645 83
For repairs of worming at Galveston .....	3, 453 05
Damage to brig from worming, notwithstanding repairs, being rated down by underwriters from A 1½ to A 2½ in consequence of being wormed .....	5, 000 00
<b>Total .....</b>	<b>11, 098 88</b>

The claim for damages in consequence of the brig being rated down by the underwriters from A 1½ to A 2½ is neither susceptible of computation by the accounting officers, nor within their jurisdiction, and may be dismissed without further remark, referring the claimants to the Court of Claims, or Congress, for relief.

The liability of the government for services from New Orleans to Galveston, and for reimbursement of repairs of injuries from worming, turns upon the question whether she was seized or impressed at New Orleans. If by the term of the bill of lading the master of the brig contracted to go to Galveston, the marine risk would fall upon the owner, and cover all services for the rates therein stipulated and damages incurred. But if, on the other hand, the contract of affreightment by bill of lading terminated at New Orleans, the order to proceed to Galveston and discharge the remainder of the coal amounted to an impressment, and renders the government liable for a reasonable compensation, and for injuries sustained while so serving under impressment.

These familiar rules of construction are mentioned in view of the opposite constructions put upon the bill of lading by the military officers connected with the transaction, and the owners, the acting quartermaster general favoring the disallowance of compensation and damages, and recommending the payment only of demurrage at the rates stipulated in the bill of lading, for the reasons set forth in his communication.

These views grow out of an indorsement on the bill of lading as follows :

May be sent to the coast of Texas at \$11 per ton from Southwest Pass. Lay days to commence on arrival at place of destination, whether New Orleans or coast of Texas. New Orleans freight only paid on coal kept on board for ballast. No demurrage for time going from coast of Texas to place of ballasting.

HENRY A. ADAMS.

Captain McGonnigle, assistant quartermaster, in a report to General Sawtelle, chief quartermaster of the Gulf, to whom the case had been referred by the Quartermaster General, dated at New Orleans, February 12, 1867, says :

From the records of this office it appears that the brig Ocean Belle entered the service of the quartermasters' department, at New Orleans, on the 9th day of August, 1865, having on board 506 tons of anthracite coal transferred to this department by the United States navy. The quartermasters' department discharged a portion of said cargo in this city, and ordered the vessel to proceed to Galveston, Texas, and discharge the remainder as contemplated in the bill of lading upon which the coal was originally shipped at Philadelphia, Pennsylvania. The brig did not discharge cargo while in the service of the navy, and the indorsement of bill of lading, that cargo was received in good order and the vessel discharged, was in consequence of the quartermasters' department receiving the coal, and also the vessel, on the same conditions that might have been enforced had she remained in their service, and the question arises, was the vessel as liable in conformity with her engagement, on entering the service of the United States, to be sent to Galveston to discharge by the quartermasters' department

as to discharge cargo in this city? Was her contract with government completed until said cargo was discharged from the vessel, notwithstanding the transfer from the navy to the quartermasters' department? There is no record on file in this office that the transfer of the coal and vessel to this department was not perfectly satisfactory to the owners of the vessel, and in conformity with the vessel's contract. There is no copy of the protest alleged to have been made by the master of the vessel on file in this office, and it is considered that any such protest would not have been in keeping with his engagement as shown, (B. L.,) that the vessel may be sent to Texas coast. The vessel remained at Galveston, Texas, twelve days, and it is quite improbable that the alleged damage could have occurred during that time, and the statement that the damage did take place while in the service of this department is equally improbable. There is no record on file in this office to show why this vessel was delayed twelve days to discharge less than 200 tons of coal.

General Sawtelle, in his letter enclosing the report of Captain McGonnigle, represents that as the brig carries but 186½ tons to Galveston, a large portion of her hull was not exposed to the chance of worms, and she remained but twelve days up to date of her discharge; that no record appears of any protest having been made by the master, nor does the fact of such protest having been made appear in the extract of the vessel's log at the time.

In connection with the time the brig was said to have remained at Galveston, (as on a question of worming the time is important,) it may be proper here to insert the affidavit of Captain Atwood, who was assistant quartermaster at Galveston at that time, dated at Gardiner, Maine, September, 1866. He states :

The brig Ocean Belle arrived at Galveston, Texas, from New Orleans, August 22, at 9.30 a. m., having on board 186½ tons coal, which coal was delivered in good order and condition, and the vessel was discharged by me from the service of the United States, at Galveston, Texas, September 5, 1865, at 11 o'clock a. m. The detention of the vessel was through no fault of the master or crew.

Captain McGonnigle states, without giving dates of arrival and discharge of the brig, that she remained but twelve days in the service at Galveston, while Captain Atwood, by whom it appears she was discharged at Galveston, gives the dates of arrival as on the 22d of August, and of her discharge on the 5th of September, 1865, making over fourteen days. The master of the brig, in his log, gives the arrival and discharge on the same dates, though he makes the arrival and discharge at a later hour in the day than Captain Atwood.

It becomes important, then, in determining whether the brig went from New Orleans to Galveston under the bill of lading or by impressment, and whether she was wormed, and to the extent wormed, while in the service at Galveston, to give the evidence on these points furnished by the claimants.

William C. Milligan, president of the National Iron Armor and Ship-building Company at Kaign's Point, New Jersey, testifies that in the month of June, 1865, the brig Ocean Belle, of Bath, Captain Morton, was taken upon the marine railway of the company, where she was put in good order, and her bottom thoroughly calked; that the said vessel's bottom was free from any damage by worms at that time.

John Bulfinch, managing owner of the brig, testifies :

I was at Philadelphia in the months of May and June, 1865, superintending the business about the said brig, which was at that time taken out on the dock of the Iron Armor Company, and a piece put in her keel and her bottom payed; that the said brig was chartered at this time by Messrs. Workman & Co., our agents there, to carry a cargo of coal from Philadelphia to New Orleans, for the navy of the United States, at ten dollars per ton, as stated to me by Captain John Morton and by Messrs. Workman & Co., and to which I gave my consent; and I further testify and say that at that time and there, no intimation was made to me by any one that the said brig was in any event, or on any contingency, to go to Galveston, or any Gulf port other than New Orleans. As my brig was new, and from my information of Galveston as a place infested with marine worms, which are sure at that season to destroy the bottom of a vessel, I would not on any condition have given my consent to such a voyage. I further testify and say that I have not received any pay for any part of the freight or damage, or for detention of my brig for the voyage from New Orleans to Galveston, on her discharge of the aforesaid freight at New Orleans, nor have I any reason to suppose that any person has received any part of said last mentioned freight or damages on any account.



William M. Thackara, of the firm of Workman & Co., Philadelphia, testifies:

Our firm chartered the brig Ocean Belle for a cargo of coal to New Orleans, via Southwest Pass, in month of June, 1865; the said vessel sailed from Philadelphia on or about June 23, 1865, with five hundred and six (506) tons coal, and the rate of freight on said coal was ten dollars per ton to New Orleans, which was paid us by Navy Department on surrender of bills of lading, stating said cargo had been received there. Our firm never were paid or received any compensation for the voyage of said vessel from New Orleans to Galveston, where the cargo was afterwards ordered, and we understand was transferred from Navy Department to War Department.

The captain of the brig, after setting forth the charter to transport the coal from Philadelphia to New Orleans, the examination and repairs made at the former place before starting, and her entire freedom from worms, continues, "that he sailed from Philadelphia on the 24th June, 1865, and arrived at New Orleans in good order and condition with the said cargo of coal, at which place she was discharged by the navy agent, Commodore Downs, and my charter was then performed and accomplished; that the brig at the time she was in New Orleans was free from worms, nor could she have been wormed since she left Philadelphia. That afterwards, at New Orleans, she was seized by J. A. Norton, assistant quartermaster, as a military necessity, and ordered to Galveston, Texas; that I, the said John Morton, protested against said voyage to Galveston, and stated that she was a new vessel, and then free from worms; that Galveston was a place infected with worms, which were very destructive to a new vessel, and that this brig was on a single bottom, and would be eaten by worms, especially at that season of the year; but the said assistant quartermaster replied that if your affiant would not go he would put in another master; and thus your affiant alleges, that he was compelled to go to Galveston, and that he did go with said brig to Galveston, and faithfully performed the voyage, and delivered the coal for the government, and no charges were made against his brig; and the said Morton alleges that he was so detained at Galveston by the assistant quartermaster that he lost the offer of a charter for his brig to New York, a full cargo of cotton, on and under deck, at two cents per pound, which he could not obtain after he was discharged, by which he lost two thousand dollars in his freight which he was afterwards obliged to take. That when he arrived in New York, which he did after being overtaken by a hurricane, the bottom of the brig was so eaten by worms that when she was taken out on the dock of Messrs. Hall, Cornish & Co., of New York, on examination it was found necessary to tar her bottom and put on a coat of felt under her suit of yellow metal to stop the worm holes and to fit her for sea. That your affiant found, before the said brig was taken on to the dock, that she began to leak; and the said Morton alleges that the said brig was worth thirty thousand dollars when she was in Philadelphia; that she will require a suit of new plank on her bottom, and when these necessary repairs are made the brig is then so permanently injured by the worms and so reduced in her class that, on sale, she will not bring so much as she would have brought before she was wormed by five thousand dollars, at least, and I think she would not sell for twenty thousand dollars, and I think her permanent injury may be fifteen thousand dollars.

"The brig was afterward chartered by Messrs. Brown and Vanderbilt, of New York, to Savannah, Georgia, and they refused to pay the charter because she rated so low, and now still refuse to pay it, and it is not now paid; and this injury to the brig was done by the worms at Galveston while in the service of the government as stated above." (Deposition dated 31st December, 1866.)

Daniel H. Morton testifies that he was first mate of the brig from the time she was launched and went to sea to the time she was seized at New Orleans, Louisiana, by the United States government under military necessity, August 9, 1865, to be used for a transport vessel. Immediately before leaving Philadelphia for New Orleans had her bottom scraped, thoroughly cleaned, and newly

painted; examined her bottom, and found it entirely free from worms and in good seaworthy condition, and judging where she had been after being renovated, according to his best knowledge and belief, she was free from worms and in good seaworthy condition when seized as aforesaid.

James D. Richards testifies that he was at Philadelphia in April, 1865, as master of the schooner *Wings of the Morning*; loaded for government; arrived in New Orleans by way of Pensacola; was ordered to Mobile, and from there back to New Orleans, when the brig *Ocean Belle* was there, in August, 1865; that he knew Captain Morton, and knew that he opposed the order of Captain Norton, assistant quartermaster, to go to Galveston, because it was a bad place for worms, and that his brig was new and on her single bottom, but was compelled to go the voyage. "My schooner was on a single bottom, and in all the voyages above to New Orleans and back to Boston was not injured by worms."

A number of depositions of experienced shipbuilders and others are furnished, whose testimony is too voluminous to give in detail, showing that new vessels, single bottom, may sail to New Orleans and Europe without danger from worms; that lying in salt water but a short time—eight or ten days—or waters infested by worms, is sufficient time for them to fasten in the bottom of the vessel, where they grow and eat the timbers, until killed by motion in fresh water, or by docking the vessel are killed by scraping and replanking.

In the deposition of John Morton, master, dated 26th March, 1867, he states that "I was master of the brig *Ocean Belle*, of Bath, Maine, and in that capacity I carried in my said vessel a cargo of coal for the United States of America from Philadelphia to New Orleans, arriving at the latter port in the month of August, 1865; that the bill of lading for said cargo had no indorsement upon it of any kind whatsoever, until my said cargo was received at that port by the United States government, when its receipt *only* was duly indorsed thereon, but no other indorsement. And further, I positively declare that I never agreed to go to Galveston; that no such indorsement ever was made on my bill of lading, and that I persistently and steadily protested against going there when ordered so to do by the United States quartermaster, the more especially that my said vessel was new and was not coppered, and I deny that by any word or act did I ever manifest any but a firm desire not to go to that port, (Galveston.)"

From the evidence thus given in the case, it is apparent that the order given at New Orleans to proceed with the brig to Galveston, Texas, and discharge the remainder of the cargo, amounted to an impressment. The bill of lading signed by the captain expressly designated New Orleans as the port of destination. The master and owner assigns the reason why they would not have chartered her for the coast of Texas—the danger of worming and the consequent injuries therefrom.

The indorsement of Commander Adams, signed by himself, "May be sent to the coast of Texas at \$11 per ton from Southwest Pass," &c, formed no part of the contract unless assented to by the master or owner, which they emphatically deny, and which is not probable they would have consented to in view of the danger from worms in the waters of that coast. The indorsement may have been intended as directions to the naval authorities there; but whatever it was intended for, or if ever forming a part of the contract, the government waived the alternative of ordering her from the Southwest Pass by allowing her to proceed to New Orleans, a distance of 130 miles from the Southwest Pass, and then, after receiving a portion of the cargo at that port, ordered her to Galveston. She was not bound to go to both ports, either by the bill of lading or the indorsement of Commander Adams.

If this view is correct the average daily hire she received under the bill of lading from Philadelphia to New Orleans would seem to present, in the absence of other data, a reasonable criterion for the per diem allowance from New Orleans to Galveston, the amount of freight she carried being determined by the



government and not by the owners. The owners claim \$100 per day, and the average daily hire she made from Philadelphia to New Orleans exceeds that rate a few dollars.

The evidence that she was injured by worming is also clear, and if wormed while in the service by impressment, the owners would, according to the rulings in such case, be entitled to a reimbursement of repairs. She was detained by the government over fourteen days at Galveston. The witnesses speak of that place as being infested with marine worms, and that from eight to ten days were sufficient, at that season of the year, for the worms to attach themselves to her bottom. She lay for nearly a month in an adjoining wharf, after she was discharged the service, taking in, loading or awaiting freight for New York, which may have given time for an increase of the injury.

Of that there is no proof. But as the vessel would not have been at Galveston, or on the coast of Texas, but for the impressment, it seems to this office that the owners should be reimbursed the cost of repairs.

The case would then stand thus :

For services under impressment from August 12, 1865, when ordered from New Orleans to Galveston, Texas, to 5th September, 1865, when discharged the service, 25 days, at \$100 per day .....	\$2, 500 00
For cost of repairs of injuries from worming, while in the service under impressment, (less the item of painting, \$190) .....	3, 263 05
Amount.....	<u>5, 763 05</u>

All of which is respectfully submitted.

JOHN WILSON, *Auditor.*

Hon. J. M. BRODHEAD,  
*Second Comptroller.*

[Indorsement.]

SECOND COMPTROLLER'S OFFICE,  
*April 27, 1867.*

Respectfully returned to the Third Auditor.

I have examined the full and elaborate report of the Auditor in the case of the brig Ocean Belle.

The facts are plain that an impressment of the vessel was made by the military authorities on the 9th of August; that the voyage undertaken in pursuance of a contract, as carrier, made with the Navy Department, terminated on the arrival of the brig at New Orleans, and the receipt of the delivery of the coal by Commodore Downs. The claim for per diem and for cost of repairs is valid, but the supposed damages, while they may properly come before Congress or the Court of Claims, cannot be legally settled by the accounting officers.

Payment, therefore, may be made of the sum, \$5,763 05.

Respectfully.

J. M. BRODHEAD,  
*Comptroller.*

QUARTERMASTER GENERAL'S OFFICE,  
*Washington, D. C., February 25, 1867.*

SIR: I have the honor to transmit herewith, for your official examination and action, the papers in the case of the claim of John Bulfinch, of Waldoboro', Maine, for the services of and damages of the brig Ocean Belle, while employed by the United States authorities.

From the evidence presented in the case it appears that the brig Ocean Belle, of 352 82-95 tons burden, was employed on the 23d of June, 1865, by the Navy Department to transport 506 tons of coal to New Orleans, Louisiana, at the rate of \$10 per ton, and demurrage at the rate of \$63 25 per day, allowing eleven days for discharging. By an indorsement on the bill of lading made by Commander Adams, United States navy, it is perceived that the vessel could be sent to the Texas coast from Southwest Pass, "lay days, to commence on arrival at place of destination, whether New Orleans or coast of Texas. New Orleans freight only paid for coal kept on board as ballast. No demurrage allowed for time of going from coast of Texas to place of ballasting."

The Ocean Belle arrived at New Orleans on the 4th of August, 1865, and was discharged on the 9th of the same month, after having delivered her cargo in good order to the Navy Department, as appears from the indorsement of Commodore John Downs, United States navy, then commanding at New Orleans; but from the statement of the master of the brig, which is confirmed by the report of Captain A. J. McGonnigle, assistant quartermaster, it appears that on the day of the brig's discharge she was actually transferred to the quartermasters' department, by the Navy Department, with her cargo of coal, of which 319½ tons was unloaded at New Orleans, and the balance shipped to Galveston, Texas, by the Ocean Belle, which vessel arrived at that port at 9.30 a. m., August 23, 1865. Her cargo was delivered in good order and condition, and the vessel was discharged by Captain G. E. Atwood, assistant quartermaster, on the 5th of September, 1865.

Claim is now made by the owner, Mr. John Bulfinch, for compensation for the vessel's services from August 10, 1865, the date of her seizure, to September 5, at 11 a. m., 26 11-24 days, at \$100 per day, amounting to \$2,645 83.

A claim is also made for \$4,000 for damages alleged to have been received by the vessel while at Galveston, Texas, by being wormed, although it is clearly to be seen, from Captain Atwood's certificate, that the vessel was exposed to worms but twelve days, as it is not pretended that they could have attacked the vessel's bottom while she was under way. If the vessel laid in waters infested with worms after her discharge from government service, it is not to be supposed that the United States is responsible for the damage resulting to her while in such waters, and it is extremely improbable that the brig was wormed to the extent alleged in the short space of nineteen days, during five days of which she was in motion; and in the opinion of this office no just claim for damages exists.

As to the claim for compensation, the attention of the Auditor is respectfully called to the indorsement of the bill of lading by Commander H. A. Adams, wherein it is clearly specified that the vessel may be sent to the Texas coast, &c. The fact that a discharge was given of the officer of the Navy Department at New Orleans, is not held to release the vessel from the obligations of the bill of lading, as had the Navy Department have chosen to order the vessel to the Texas coast, and there have transferred her cargo to the quartermasters' department, her owners could have claimed but the freight stipulated in the bill of lading, with such demurrage as might be due for detention of the brig over and above eleven days' time allowed per bill of lading for discharging cargo.

It is recommended that the vessel be paid accordingly, at the rates of demurrage specified in the bill of lading, for such time as in excess of eleven days she was detained at Galveston and New Orleans.

I am, sir, very respectfully, your obedient servant,

D. H. RUCKER,  
*Acting Quartermaster General.*

Hon. JOHN WILSON,

*Third Auditor, Treasury Department, Washington, D. C.*

WALDOBORO', MAINE, *September 22, 1866.*

SIR: Accompanying I have the honor respectfully to submit my claim, amounting to two thousand six hundred and forty-five dollars and eighty-three cents, (\$2,645 83,) for services rendered by my brig, Ocean Belle, with master and crew, in transporting coal from New Orleans to Galveston, Texas, while under seizure and impressment by Captain G. A. Norton, assistant quartermaster, during the period inclusive from August 10 to September 5, at 11 a. m., 1865. And also my claim amounting to four thousand dollars (\$4,000) for damages received by said brig Ocean Belle on account of being eaten by worms, in consequence of said vessel having been seized and impressed by the said Captain G. A. Norton, assistant quartermaster, and sent from New Orleans, a freshwater port, to Galveston, Texas, and held to service, notwithstanding the protest of the master of the vessel to the contrary, during the period inclusive from August 10 to September 5, (inclusive,) at 11 a. m., 1865.

To substantiate my first-mentioned claim for services of the vessel, master, and crew, I respectfully ask attention to accompanying paper marked A, in which is shown a contract of the brig Ocean Belle with the United States Navy Department to transport 506 tons coal from Philadelphia to New Orleans; and also that this contract was completed and the vessel discharged from the naval service of the United States at New Orleans, August 9, 1865, as per indorsement of John Downs, commander United States navy, on back of said bill of lading; also attention is asked to accompanying papers marked B, in which it is shown that after having been discharged from the naval service the said brig Ocean Belle was seized and impressed as a military necessity by G. A. Norton, assistant quartermaster, and sent from New Orleans to Galveston, Texas, with cargo of coal.

This seizure took place on the 9th day of August, 1865, the same day the vessel was discharged from the naval service, and involved the detention of the vessel in the service of the quartermasters' department of the United States army until the 5th day of September, at 11 a. m., 1865.

In further evidence of the seizure and the services of my vessel, I call attention to accompanying papers marked C and D, in which appear affidavits of the seizure, detention, and services of the Ocean Belle, said affidavits being made by John Morton, at that time master of the vessel.

In addition, attention is asked to accompanying paper marked E, in which appears affidavit of Messrs. Workman & Co., agents of the vessel, of the non-receipt and probable loss of the original papers, showing the seizure and services of the vessel.

A sworn copy of the vessel's log for the period of time during which compensation for services of the vessel are claimed, is also submitted, marked F; also the vessel's register, marked G. It is further believed that the record of transportation, employed at New Orleans under the direction of Captain G. A. Norton, assistant quartermaster, during the month of August, 1865, will show that the brig Ocean Belle was seized at New Orleans August 9, 1865, and sent to Galveston August 14, 1865.

It being now upwards of a year since the money was justly due for the services of the vessel, it is respectfully and earnestly requested that the above amount claimed for services of the brig Ocean Belle, viz., \$2,645 83, may be allowed and paid at as early a day as the convenience of the department will permit. In substantiation of the second claim for damages by worms, or "towedds," papers marked A, showing that the vessel was at time of impressment clear of the naval service of the United States, and free to go wherever directed to go by owner or master, are respectfully submitted; and papers marked B, showing impressment and seizure of the vessel at New Orleans by the United States quartermasters' department, and her despatch from a freshwater port to one infected with worms or "towedds," are submitted; papers

marked C and D, showing that the Ocean Belle was seized and despatched from New Orleans to Galveston, notwithstanding the protest of John Morton, the master of the said brig, that his vessel was without a copper bottom, and was therefore unfit to go to a port infested with timber worms, and that in consequence of said seizure and forced voyage from New Orleans to Galveston his vessel was greatly injured, are respectfully submitted.

In substantiation of the amount of damage claimed, the accompanying affidavit, marked H, of Messrs Hall, Cornish & Co., who made the repairs necessary in consequence of the injury received from worms by the Ocean Belle, is respectfully submitted.

It is now respectfully submitted to the department proper for the claim to go before, that claimant's vessel, the Ocean Belle, was forcibly seized and impressed, on the 9th day of August, 1865, while lying in the port of New Orleans, for purposes of commerce by the military agent of the United States; and notwithstanding the protest of said claimant's agent that his vessel was without copper bottom, and unfit to anchor in ports infested with timber worms, said vessel was forced to sail from the fresh-water port of New Orleans, a port of safe anchorage for vessels situated as was claimant's, without copper, and to enter the port of Galveston, Texas, a port infested with timber worms or "towed," and was compelled to anchor in said port of Galveston for upwards of thirteen days, and that during said time of anchorage in said port, she became infested with timber worms, to such an extent as to become injured therefrom to an amount exceeding four thousand dollars.

Had claimant made a contract with the United States or its agent, it is obvious that he or his underwriters must have assumed all risk, save such as the United States might have agreed to assume. But claimant had no desire to make a contract for this voyage. His intention was quite different. He knew his vessel's condition was such that she could not safely enter the port of Galveston, or any other Gulf port, save where anchorage could be made in fresh water; and he made known the condition of his vessel in the form of a protest to the military agent of the United States, so that it was well known to said agent what risk the United States was taking, when this vessel was forcibly compelled to enter upon a voyage contrary to the wishes and judgment of the master of the vessel. Yet, notwithstanding this protest, the military agent of the United States, Captain G. A. Norton, assistant quartermaster, forced a vessel to leave a port of safety, and to enter a port destructive to the safety of the vessel, and injury thereby occurred to the vessel diminishing her value upwards of four thousand dollars.

It is a fact too well known to need substantiation here, that a vessel while under way can never be attacked by timber worms; but being anchored only for a few days, almost, it may be said, for a few hours, in waters infested with timber worms, vessels become infested; and once having begun their destructive effects on the vessel's bottom, nothing can stop their ravages save anchoring the vessel in fresh water for a considerable period, or placing her in a dry dock.

It is claimed, but for the act of impressment by the United States the vessel would have passed on through the waters of the Gulf, direct from New Orleans to New York, or other northern port, without having been eaten by worms, and that having been forcibly taken from a place of safety and exposed to danger, the vessel was thereby injured to an amount exceeding four thousand dollars, and that the United States, by a violent act of its agent, Captain G. A. Norton, assistant quartermaster, in taking said vessel against the will and protest of her master, thereby assumed all the risk and responsibility for damage that might arise to said vessel through said seizure and impressment.

It is therefore respectfully and earnestly asked that the amount above claimed and believed to be just and equitable for damages to the brig Ocean Belle, while under seizure by the quartermasters' department at New Orleans, from August

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9 to September 5, 1865, and performing voyage from New Orleans to Galveston, Texas, and discharging at latter port, may be allowed and paid to her owner, your claimant, at as early a date as the convenience of the department will allow.

Respectfully submitted :

JOHN BULFINCH.  
Per G. E. ATWOOD.

Major General M. C. MEIGS,  
*Quartermaster General U. S. Army.*

*The United States to John Bulfinch, DR.*

September 22, 1866.—For damage to his brig, Ocean Belle, by timber worms, or "towed," while under seizure and impressment by the quartermasters' department at New Orleans, Louisiana, and performing voyage from latter port to Galveston, Texas, the damage having been inflicted while the vessel was at anchor and being discharged at Galveston ..... \$4,000 00  
From August 10 to September 5, 1865, (inclusive.)

In support of above claim accompanying papers, marked A, B, C, D, E, F, G, H, are respectfully submitted :

JOHN BULFINCH.  
Per G. E. ATWOOD.

*The United States to John Bulfinch, DR.*

September 22, 1866.—For services of his brig, Ocean Belle, master and crew, while under impressment by the United States quartermasters' department, and performing a voyage from New Orleans, Louisiana, to Galveston, Texas, from August 10, 1865, to September 5, at 11 o'clock a. m., 1865, a period of twenty-six 11-24 days, at 100 per day ..... \$2,645 83

The rate of pay per day claimed is based upon the earnings of the vessel's previous voyage. (See accompanying papers, marked B.) The bill of lading accompanying shows contract with Navy Department to transport five hundred and six tons coal from Philadelphia to New Orleans, at \$10 per ton, and said voyage was completed in forty-eight days, making a net earning of \$5,060 in forty-eight days, or \$105 83½ per day.

Freights were good at New Orleans at this period, and the vessel, had she not been impressed, was really worth more than \$100 per day to owner, and the owner respectfully asks that an amount not less than above charged may be allowed him in compensation for services of his vessel while under seizure.

JOHN BULFINCH,  
Per G. E. ATWOOD.

[Indorsements.]

QUARTERMASTER GENERAL'S OFFICE,  
December 7, 1866.

Respectfully referred to Colonel C. G. Sawtelle, chief quartermaster, New Orleans, Louisiana, for information and report.

By order of quartermaster general, colonel quartermaster's department, brevet brigadier general in charge third division.

General D. WISE.



OFFICE CHIEF QUARTERMASTER, DEPARTMENT OF THE GULF,  
*New Orleans, December 15, 1866.*

Respectfully referred to Captain A. J. McGonnigle, assistant quartermaster, for report and early return.

C. G. SAWTELLE,  
*Bvt. Brig. Gen., Acting Quartermaster Dep't of the Gulf.*

OFFICE ASSISTANT QUARTERMASTER UNITED STATES ARMY,  
*New Orleans, Louisiana, February 12, 1867.*

Respectfully returned to Brevet Brigadier General C. G. Sawtelle, chief quartermaster, department of the Gulf, and attention invited to accompanying report.

A. J. MCGONNIGLE,  
*Captain and Assistant Quartermaster U. S. Army.*

In support of my claim for compensation for services of and damages to my vessel, the brig Ocean Belle, of Bath, Maine; I beg, most respectfully, to submit, in connection with and explanatory of the evidence heretofore filed, the following summary of facts :

On the 24th day of June, 1865, in pursuance of a contract with an agent of the Navy Department at Philadelphia, your claimant's vessel sailed from the port of Philadelphia with a cargo of coal, consigned to navy agent at New Orleans. The bill of lading shows that the agreement upon the part of your claimant was to transport said cargo to New Orleans, which he respectfully submits was performed, and the contract with the Navy Department was completed and at an end, and his vessel was discharged on the 9th day of August, 1865. The affidavit of John Morton, master of said vessel, shows that afterwards, to wit, on said 9th day of August, 1865, said vessel, while lying at the port of New Orleans and not under charter, was seized by G. A. Norton, captain and assistant quartermaster, under the plea of a military necessity, and sent to Galveston, Texas, in the service of the quartermasters' department, and there detained until the 5th day of September, 1865, notwithstanding the protest of your claimant through his agent; that his vessel not being coppered, was in danger of being injured by worms, and was unfit to enter and lie in salt-water ports at that season of the year. The certificate of Captain G. E. Atwood, assistant quartermaster, shows that said vessel was in the service of this department, that the detention was owing to no fault of the master or crew, and that he discharged her at Galveston on the 5th day of September, 1865.

The affidavit of John Morton shows that at the time said vessel was seized freights at New Orleans were good, and the vessel could have been freighted in the fresh water of the Mississippi without injury. Your claimant respectfully submits that the amount of \$2,645 83 claimed as compensation for the services of his vessel from the 9th day of August, 1865, the date of her seizure, to the 5th day of September, 1865, the date of her discharge, is most reasonable and just, and respectfully requests that the same be allowed.

Your claimant further submits that his vessel was damaged by worms while at Galveston in the service of the quartermasters' department, and after and during the seizure by the United States authorities at New Orleans. The extent of said damage is also shown by the following evidence :

The depositions of William C. Mulligan, president, and Adam Mowers, superintendent of National Iron Armor and Ship Company at Philadelphia, show that the vessel was put on the railway immediately before she sailed from Philadelphia, and was at that time free from damage. The depositions of four ex-

perienced ship-masters, heretofore submitted, show that the vessel could not have been injured by worms on the passage from Philadelphia to New Orleans.

The deposition of Captain John Morton shows that "the vessel was free from worms at the time she was seized, and that she was injured by worms at Galveston while under seizure." The depositions of Daniel H. Morton and Joseph D. Richards corroborate the testimony of Captain Morton. The depositions of Willard Hall and W. D. Merritt show that they repaired the vessel upon the arrival at New York, and that live worms were found in her hull. The deposition of A. L. Allen, an experienced ship-builder, shows that the fresh water at New Orleans would have killed the worms had they been in the vessel at that port; that eight or ten days is sufficient time to enable worms to fix themselves upon the bottom of a vessel not coppered. The *Ocean Belle* was at Galveston for a much longer period.

The amount actually expended in repairs will, by reference to the depositions of Messrs. C. C. Duncan & Co., Messrs. Willard Hall and W. D. Merritt, and the accounts of Messrs. Freeborn & Co., more fully and at large appear.

The depositions of Messrs. Hall and Merritt show that after the vessel was repaired by them she rated down from A1½ to A2½, and that before she was damaged she was worth more than \$25,000. The deposition of A. L. Allen shows that a vessel which has been rated down from A1½ to A2½ is reduced in value five or six thousand dollars. The depreciation in her classification and the necessary repairs to render her seaworthy would amount to ten or twelve thousand dollars.

Your claimant respectfully submits that the sum of \$11,098 83, claimed by him for the services of and damages to the vessel, is just and reasonable, and he asks that his claim for said amount be allowed.

JOHN BULFINCH.

Brevet Major General M. C. MEIGS,  
*Quartermaster General, &c.*

PHILADELPHIA, *June 23, 1865.*

Shipped by Commodore Henry A. Adams, United States navy, in good order, on board the brig *Ocean Belle*, of Richmond, Maine, whereof the undersigned is master, for this voyage, now lying in the port of Philadelphia and bound for New Orleans, Louisiana, five hundred and six tons of anthracite steamer coal, all under deck, which I promise to deliver in the like good order at the port of New Orleans, Louisiana, (the dangers of the sea only excepted,) unto the senior naval officer or to his assigns, freight for the same payable by the navy agent at Philadelphia to Workman & Co., at the rate of ten dollars per ton and demurrage sixty-three dollars and twenty-five cents per day, allowing eleven (11) days for discharging.

In witness whereof, the master of the said vessel hath affirmed to five bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void.

JOHN MORTON.

STATE, COUNTY AND CITY OF NEW YORK, ss :

On this 28th day of April, 1866, before me, A. F. Higgins, a notary public, duly commissioned and sworn, residing in said city, personally appeared John Morton, who, being sworn, deposes and says that he is master of the brig *Ocean Belle*, of Bath, Maine, and that on the 24th day of June, 1865, he in that capacity sailed from the port of Philadelphia in and with said vessel, with a cargo



of coal shipped by the navy agent of that port, consigned to the navy agent at New Orleans; and that upon arrival at New Orleans the said vessel with her cargo was by the navy agent turned over to the quartermasters' department under the plea of a military necessity, and this deponent was ordered by the assistant quartermaster Norton, after delivering to his order a portion of the cargo, to proceed with his vessel to Galveston, Texas, at which port the vessel was compelled to remain in the service of the quartermasters' department engaged in coaling government transports, &c., until the 5th of September, 1865, when the cargo being all delivered the vessel was discharged by Quartermaster Geo. E. Atwood. This deponent, before leaving Galveston, caused to be mailed to Messrs. Workman & Co., the agents of the vessel at Philadelphia, the proper vouchers relating to the taking of the brig by the quartermasters' department at New Orleans, the delivery of cargo, and her discharge by the quartermaster at Galveston, which papers have never reached their destination, and are believed by this deponent to have been lost in such transmission.

JOHN MORTON.

Sworn to before me this 30th of April, A. D. 1866.

[SEAL.]

A. F. HIGGINS,  
*Notary Public.*

STATE OF MAINE, *County of Kennebec, ss:*

On this 7th day of September, 1866, before me, a justice of the peace in and for the county and State above named, personally appeared George E. Atwood, late captain and assistant quartermaster United States volunteers, who, being duly sworn according to law, doth depose and say, that the above certificate, signed by him, and relating to the arrival at Galveston, Texas, of the brig Ocean Belle on the 23d day of August, 1865, at 9.30 o'clock a. m., and the discharge of said vessel from the service of the United States at Galveston, Texas, on the 5th day of September, 1865, at eleven o'clock a. m., is correct and true.

GEORGE E. ATWOOD,

*Late Captain and Assistant Quartermaster.*

Sworn to and subscribed before me this 7th day of September, A. D. 1866.

E. A. CHADWICK,  
*Justice of the Peace.*

STATE OF MAINE, *Kennebec County, ss:*

I, William M. Stratton, clerk of the supreme judicial court of Maine, for the said county of Kennebec, hereby certify that Edmund A. Chadwick, esq., before whom the annexed affidavit was made, was, at the date thereof, a justice of the peace for our county of Kennebec, duly commissioned and qualified, and duly authorized to administer oaths, take acknowledgments of deeds, &c., and that his signature thereto is genuine.

In attestation whereof I have hereunto set my hand and affixed the seal of said court at Augusta, this 8th day of September, A. D. 1866.

[SEAL.]

WILLIAM M. STRATTON, *Clerk.*

[Indorsement.]

OFFICE OF ASSISTANT QUARTERMASTER,  
*New Orleans, Louisiana, May 7, 1866.*

This vessel, brig Ocean Belle, arrived in this city August 5, at eleven o'clock, a. m., having on board five hundred and six (506) tons anthracite coal, three hundred and nineteen and five-tenths ( $319\frac{5}{10}$ ) tons of which was unloaded here,

and the balance shipped to Galveston, Texas, on same boat, as shown by the coal reports of this office. There is no evidence of a bill of lading having been signed at the office of Captain G. A. Norton, assistant quartermaster. It is supposed that the indorsement for transportation of part of cargo was made on the bill of lading upon which the shipment at Philadelphia was made. The claimants should obtain from the quartermasters at Galveston a certificate showing that the vessel delivered one hundred and eighty-six and one-half (186½) tons of coal at Galveston, and stating the day of the vessel's arrival, when completed discharging cargo, and whether the destination was caused through any neglect or fault of the master or crew.

E. S. ALLEN,  
*Brevet Lieutenant Colonel and Assistant Quartermaster.*

GARDINER, MAINE, September 6, 1866.

Brig Ocean Belle arrived at Galveston, Texas, from New Orleans, Louisiana, August 23, 1865, at 9.30 o'clock a. m., having on board one hundred and eighty-six and one-half (186½) tons coal, which was delivered in good order and condition, and the vessel was discharged by me from the service of the United States at Galveston, Texas, September 5, 1865, at 11 o'clock a. m. The detention of the vessel was through no fault of the master or crew.

GEORGE E. ATWOOD,  
*Late Captain and Assistant Quartermaster.*

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M. C. MEIGS, *Quartermaster General, Washington, D. C. :*

I, John Morton, of New Castle, Maine, on oath depose and say that on the 23d day of June, A. D. 1865, at Philadelphia, I was master of the brig Ocean Belle; that I there took on board of said brig five hundred and six (506) tons of coal, shipped by Commodore Henry A. Adams, United States navy, as per the bill of lading signed by me, bound to New Orleans, Louisiana; that I arrived at New Orleans August 4, and there on the 9th of August discharged 506 tons received in good order on within bill of lading, indorsed by John Downer, commanding New Orleans, where my charter by the bill of lading was faithfully performed and ended; that afterwards my brig was there seized on the 9th day of August, 1865, by the United States quartermaster at New Orleans, as a military necessity, and ordered to Galveston; that I protested against the said voyage, because it was not within my charter, and because my brig was not fitted for that voyage, was on a single bottom, and nearly new, and would there be injured by the worms. But the orders of Captain G. A. Norton, assistant quartermaster, were peremptory; that if I would not go, the brig would with another master. Under my said protest, as a necessity, I sailed on the 14th of August from New Orleans for Galveston, according to said orders of the said assistant quartermaster, and arrived at Galveston on the 23d day of August, and faithfully delivered my cargo in good order; that my brig was so detained by the assistant quartermaster at Galveston that, by reason of said detention and orders of the assistant quartermaster, my brig was so much eaten and damaged by worms by her detention at Galveston, that, when I arrived in New York it became necessary to take the brig on to the dock, calk her and put on a suit of yellow metal over a coat of felt and tar to make her tight; that the repairs necessary in New York, in consequence of the damage received at Galveston, were not less than three thousand and five hundred dollars; that after the said repairs the brig did not rate in her classification as high as she did before, and on any sale she would not be valued as before by some thousands of dollars; and to put on new plank would cost at least four thousand dollars, in my estimation.

JOHN MORTON.

STATE OF MAINE, *County of Kennebec, ss:*

On this 17th day of September, A. D. 1866, personally appeared the above-named John Morton, and made oath to the truth of the foregoing statement by him subscribed before me.

E. A. CHADWICK,  
*Justice of the Peace.*

STATE OF MAINE, *Kennebec County, ss:*

I, William M. Stratton, clerk of the supreme judicial court of Maine for the said county of Kennebec, hereby certify that Edmond A. Chadwick, esquire, before whom the annexed affidavit was made, was, at the date thereof, a justice of the peace for our county of Kennebec, duly commissioned and qualified, and duly authorized to administer oaths, take acknowledgments of deeds, &c, and that his signature thereto is genuine.

In attestation whereof I have hereunto set my hand and affixed the seal of said court at Augusta, this 18th day of September, A. D. 1866.

[SEAL.]

WM. M. STRATTON, *Clerk.*

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I, John Morton, of New Castle, Maine, on oath depose and say that I was master of the brig Ocean Belle when she was seized by G. A. Norton, assistant quartermaster, at New Orleans, on the 9th day of August, and by said Norton, against my protest, ordered said brig to Galveston. I protested against said voyage, because I was on a single bottom, and would be there worm-eaten and damaged by the worms there. I further depose and say that I would not have gone to Galveston unless I had been so compelled to go, but should have loaded my vessel at New Orleans, where the freights for the east were high and vessels for the east in demand.

JOHN MORTON.

STATE OF MAINE, *County of Kennebec, ss:*

On this 17th day of September, 1866, personally appeared the above-named John Morton, and made oath to the truth of the foregoing statement by him subscribed before me.

E. A. CHADWICK,  
*Justice of the Peace.*

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PHILADELPHIA, *September 18, 1866.*

I, William M. Thackara, of the firm of Workman & Co., commission merchants, of Philadelphia, do depose and swear that the said firm have never received any vouchers of charter of brig Ocean Belle, Captain Morton, from Galveston, Texas, relating to charter of said vessel from New Orleans to Galveston. The vouchers or evidence of service of said brig are said to have been sent us per mail; if sent they never have reached us.

WM. M. THACKARA.

Sworn and subscribed this 18th day of September, 1866, before me.

[SEAL.]

E. W. KELLEY,  
*Notary Public.*

# 18 UNPAID CLAIMS IN QUARTERMASTERS' DEPARTMENT.

*Abstract of log, brig Ocean Belle, Morton master, August 4 to September 5, 1865.*

*Friday, 4th.*—This day begins with fine pleasant weather; at 6 a. m. a tug-boat came alongside and towed the vessel alongside of the wharf and made fast. So ends this day.

*Saturday, 5th.*—This day begins with fine pleasant weather; at 11 a. m. the tug-boat towed the vessel into the government coal wharf, to discharge cargo. So ends this day.

*Sunday, 6th.*—This day begins with fine pleasant weather, and no work going on. So ends this day.

*Monday, 7th.*—This day begins with fine pleasant weather, and the stevedores getting ready to commence to discharge cargo. So ends this day.

*Tuesday, 8th.*—This day begins with fine pleasant weather; at 7 a. m. received orders to discharge no coal at government wharf; at 10 a. m. towed up to Bulk-head to discharge coal. So ends this day.

*Wednesday, 9th.*—This day begins with fine pleasant weather, and commence to discharge coal. So ends this day.

*Thursday, 10th.*—This day begins with pleasant weather, and discharging coal. So ends this day.

*Friday, 11th.*—This day begins with pleasant weather, and still discharging coal. So ends this day.

*Saturday, 12th.*—This day begins with fine pleasant weather, and received orders to discharge no more coal. So ends this day.

*Sunday, 13th.*—This day begins with fine pleasant weather, and no work going on. So ends this day.

*Monday, 14th.*—This day begins with fine pleasant weather, and now laying to the wharf waiting for orders to tow down river; at 8 p. m. the tug-boat came alongside, and proceeded down the river with the vessel. So ends this day.

*Tuesday, 15th.*—This day begins with fine pleasant weather; at 12 m. came to anchor at the Southwest Pass, with a fresh breeze from the southwest. So ends this day.

*Wednesday, 16th.*—This day begins with fine pleasant weather; at 8 a. m. hove up anchor and towed out over the bar, with a light breeze from the northwest; at 12 meridian east, Southwest Pass light-house bearing north-northeast, eight miles distance. So ends my harbor log with twelve hours.

*Journal from New Orleans towards Galveston.*

THURSDAY, 17TH.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	2.....	S.....	S.W.....	W. N.W...	These 24 hours commence with fine, pleasant weather, with light breezes from the W.N.W. So ends these 24 hours.  Lat. by obs. 28° 10' N.
2.....	2.....	.....	.....	.....	
3.....	2.....	.....	.....	.....	
4.....	2.....	.....	.....	.....	
5.....	2.....	.....	.....	.....	
6.....	2.....	.....	.....	.....	
7.....	2.....	.....	.....	.....	
8.....	2.....	.....	.....	.....	
9.....	2.....	.....	.....	.....	
10.....	2.....	.....	.....	.....	
11.....	2.....	.....	.....	.....	
12.....	2.....	.....	.....	.....	

UNPAID CLAIMS IN QUARTERMASTERS' DEPARTMENT.

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FRIDAY, 18TH.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	2.....	.....	W. S.W. ...	N.W. ...	These 24 hours commence with fine, pleasant weather, with light breezes from NW.
2.....	2.....	.....	.....	.....	
3.....	2.....	.....	.....	.....	
4.....	2.....	.....	.....	.....	
5.....	2.....	.....	.....	.....	At 2 a. m. squall from the N. NW.
6.....	2.....	.....	West..	N. N.W. ....	
7.....	2.....	.....	.....	Calm .....	At 4 a. m. calm.
8.....	2.....	.....	.....	.....	
9.....	2.....	.....	.....	.....	
10.....	3.....	.....	.....	.....	So ends these 24 hours. Lat. by obs. 27° 57' N.
11.....	3.....	.....	.....	.....	
12.....	2.....	.....	.....	.....	

SATURDAY, 19TH.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	1.....	.....	W. by N. ...	N. N.W. ...	These 24 hours commence with fine, pleasant weather, and light breezes from N.NW.
2.....	1.....	.....	.....	.....	
3.....	1.....	.....	.....	.....	
4.....	2.....	.....	.....	.....	
5.....	2.....	.....	.....	.....	Latter part fresh breezes from NE. and cloudy.
6.....	2.....	.....	.....	N. E. ....	
7.....	2.....	.....	.....	.....	So ends these 24 hours.  Lat. by obs. 28° 4' N.
8.....	1.....	.....	.....	.....	
9.....	1.....	.....	.....	.....	
10.....	1.....	.....	.....	.....	
11.....	1.....	.....	.....	.....	
12.....	3.....	.....	.....	.....	

SUNDAY, 20TH.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	5.....	$\frac{1}{2}$ .....	W. by S ...	East ..	These 24 hours commence with fine, pleasant weather, and fine breezes from the eastward.
2.....	5.....	$\frac{1}{2}$ .....	.....	.....	
3.....	5.....	$\frac{1}{2}$ .....	.....	South ..	
4.....	5.....	$\frac{1}{2}$ .....	.....	.....	
5.....	3.....	.....	.....	.....	Latter part heavy weather and light air from the NE.
6.....	3.....	.....	.....	.....	
7.....	2.....	.....	.....	.....	So ends these 24 hours.  Lat. by obs. 28° 37' N.
8.....	2.....	.....	.....	Calm .....	
9.....	1.....	.....	.....	.....	
10.....	1.....	.....	.....	.....	
11.....	1.....	.....	.....	.....	
12.....	1.....	.....	.....	.....	



20 UNPAID CLAIMS IN QUARTERMASTERS' DEPARTMENT.

MONDAY, 21ST.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	2.....	$\frac{1}{2}$ .....	W. N. W....	S. E. ....	These 24 hours commence with fine, pleasant weather, and light breezes from the SE.
2.....	2.....	$\frac{1}{2}$ .....	.....	.....	
3.....	2.....	$\frac{1}{2}$ .....	.....	.....	
4.....	2.....	$\frac{1}{2}$ .....	.....	.....	
5.....	2.....	.....	.....	.....	Latter part light breezes from the S.S.W.
6.....	2.....	.....	.....	.....	
7.....	2.....	.....	.....	S. S. W ....	
8.....	2.....	.....	.....	.....	
9.....	2.....	.....	.....	.....	
10.....	2.....	.....	.....	.....	
11.....	3.....	.....	.....	.....	
12.....	3.....	.....	.....	.....	

TUESDAY, 22D.

H.	K.	$\frac{1}{2}$ K.	Courses.	Winds.	
1.....	4.....	.....	West.....	S. S. E ....	These 24 hours commence with fine, pleasant weather, and light breezes from the S.S.E.
2.....	1.....	.....	.....	.....	
3.....	1.....	.....	.....	.....	
4.....	1.....	.....	.....	.....	
5.....	1.....	.....	.....	.....	At 9 p. m. made Galveston light, bearing W.NW.
6.....	2.....	.....	.....	.....	
7.....	4.....	.....	.....	.....	At 1 a. m. came to anchor about 1 mile from the bar.
8.....	4.....	.....	.....	.....	
9.....	4.....	.....	.....	.....	
10.....	4.....	.....	.....	.....	At 3 p. m. hove up anchor: pilot came aboard and took the vessel in over the bar. At 5 p. m. came to anchor off Galveston city. So ends my sea log, with 36 hours to commence my harbor log.
11.....	0.....	.....	.....	.....	
12.....	0.....	.....	.....	.....	

*Wednesday, 23d.*—This day begins with fine, pleasant weather, and lying in the stream, at anchor, off the city off Galveston; at 5 p. m. dropped in alongside of the wharf and made fast. So ends this day.

*Thursday, 24th.*—This day begins with fine, pleasant weather; at 9 o'clock at night commenced to discharge coal from the brig to coal up a steamship. So ends this day.

*Friday, 25th.*—This day begins with fine, pleasant weather, and discharging no coal. So ends this day.

*Saturday, 26th.*—This day begins with heavy rain and fresh gales from the south-southeast. So ends this day.

*Sunday, 27th.*—This day begins with fine, pleasant weather, and no work going on. So ends this day.

*Monday, 28th.*—This day begins with fine, pleasant weather, and discharging coal from the brig. So ends this day.

*Tuesday, 29th.*—This day begins with fine, pleasant weather, and discharging cargo from the brig; at 2 p. m. sent two men to the hospital. So ends this day.

*Wednesday, 30th.*—This day begins with fine, pleasant weather, and still discharging cargo. So ends this day.

*Thursday, 31st.*—This day begins with fine, pleasant weather, and still discharging coal from the brig. So ends this day.

*Friday, September 1st.*—This day begins with fine, pleasant weather, and still discharging cargo. So ends this day.

*Saturday, 2d.*—This day begins with fine, pleasant weather, and still discharging cargo from the vessel. So ends this day.

*Sunday, 3d.*—This day begins with fine, pleasant weather, and no work going on. So ends this day.

*Monday, 4th.*—This day begins with fine, pleasant weather, and still discharging coal. So ends this day.

*Tuesday, 5th.*—This day begins with fine, pleasant weather. Discharging coal; at 12 o'clock all discharged; at 2 p. m. towed out from the government wharf, and hauled into another wharf to commence loading. So ends this day.

CITY AND COUNTY OF NEW YORK, ss :

I, A. Foster Higgins, a public notary in and for said city and county, duly commissioned and sworn, dwelling in said city, do certify the foregoing to be a true and exact copy of the log exhibited to me.

In testimony whereof, I hereunto set my hand and notarial seal, this twenty-third day of December, one thousand eight hundred and sixty-five.

[SEAL.]

A. F. HIGGINS, *Notary Public.*

PERMANENT, No. 26.—In pursuance of an act of Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," John Bulfinch, (5-8,) of Waldoboro', State of Maine, having taken or subscribed the oath required by the said act, and having sworn that he, together with William Rogers, (3-16,) Samuel B. Reed, (2-16,) and Edward P. Stinson, (1-16,) of Bath, State aforesaid, are the only owners of the ship or vessel called the Ocean Belle, of Bath, whereof John Morton is at present master, and a citizen of the United States, as he has sworn, and that the said ship or vessel was built at Bath, State of Maine, in the year eighteen hundred and sixty-four, as per master carpenter's certificate, dated this day; and Elisha Clarke, a deputy surveyor of this port, having certified that the said ship or vessel has one deck, and two masts, and that her length is one hundred and nineteen feet, two inches; her breadth twenty-eight feet, one inch; her depth eleven feet, eight inches; that she measures three hundred and fifty-two and 82-95 tons; that she is a brig, has an elliptic stern, and a billet head; and the said John Bulfinch having agreed to the description and admeasurement above specified, and sufficient security having been given, according to the said act, the said brig has been duly registered at the port of Bath.

Given under my hand, and seal at the port of Bath, this eighteenth day of August, in the year one thousand eight hundred and sixty-five.

[L. S.]

R. SOLGER,

*Acting Register.*

E. S. J. NEALLEY,

*Deputy Collector.*

DISTRICT AND PORT OF BATH,

OFFICE OF COLLECTOR OF CUSTOMS,

*August 21, 1865.*

I certify that the within is a true copy of the register of the brig Ocean Belle, from the records of this office.

Witness my hand and seal of office.

[SEAL.]

E. S. J. NEALLEY, *Deputy Collector.*



CITY, COUNTY AND STATE OF NEW YORK, ss :

Willard Hall and Washington D. Merritt, being duly sworn, say, and each for himself says : That they are members of the firm of Hall, Cornish & Co., of the city of New York, shipwrights, and have been for seven years last past ; that said Hall has been twenty-five years in this business, and said Merritt twenty years, and have, in their said business, had much experience in repairing vessels damaged by worms on the coast of Louisiana and Texas ; that during the latter part of November, 1865, the brig Ocean Belle, Captain Morton, of Bath, Maine, came to deponents' ship-yard, in the port of New York, for repairs, having just arrived from Galveston by way of Key West, where she had been in the service of the United States. She was taken into dock, and out of water, by deponents, and by them personally examined. Her bottom was very badly eaten by worms, so much so that she was entirely unfit to go to sea. The worms had eaten into her planks from the keel upwards, to such an extent that it was absolutely necessary to calk her throughout, and put on a suit of metal, over a coating of felt and tar, to make her seaworthy.

To have fully repaired the damage done by the worms, so as to have made her as good as she was before the worms eat her, it would have been necessary to take the plank off from her bottom and replank her ; and this will yet have to be done.

As the most economical mode of repairing her, her bottom was covered with a coating of tar, felt, and metal. This made her seaworthy, though she still leaks, and will eventually have to be stripped and replanked.

The necessary expense of material and labor, &c., of these repairs, caused wholly by her having become wormed, as aforesaid, in the waters of the Gulf, at and near Galveston, was \$3,500. Deponents' bill for labor, &c., was over \$1,200 ; and, after this was done, she was not worth as much as she was before she was wormed, nor as much as she would have at that time been had she not got wormed, by from three to four thousand dollars, and would not sell for so much as before by that amount.

Before she was wormed she rated A1½, but after she had been, as aforesaid, repaired, she was, on account of the worming, rated lower, and classed A 2½.

Deponents have no doubt, from their knowledge of such matters, and from examining her, that she was wormed at Galveston. The damage caused by this worming could not be fairly estimated at less than \$4,000. In deponents' opinion it is a great deal more.

WILLARD HALL.  
W. D. MERRITT.

Sworn to before me this fifteenth day of September, 1866.

[SEAL.]

A. LATHEN SMITH,

*Notary Public, New York City.*

STATE OF NEW YORK, *City and County of New York*, ss :

I, William C. Conner, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, being a court of record, do hereby certify that A. Lathen Smith, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said State, and for general purposes, and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand, and affixed the seal of the said court and county, the fifteenth day of September, 1866.

[SEAL.]

WM. C. CONNER, *Clerk.*

STATE OF MAINE, *County of Lincoln, ss :*

On this thirty-first day of December, A. D. 1866, before me, Nathaniel M. Pike, esq., a trial justice, duly commissioned and qualified to administer oaths, residing in Damariscotta, in said county and State, personally appeared John Morton, of New Castle, in said county and State, who, being first duly sworn, deposes and says that he is master of the brig Ocean Belle, of Bath, Maine, and has been master of said brig ever since she was built; that she was first duly registered on the 24th day of August, 1864, and that he continued to be master of her, and that he chartered her at Philadelphia, Pennsylvania, to the government of the United States to transport coal to New Orleans, Louisiana; that before he sailed on said voyage to New Orleans, he took her out on the railway of the National Iron Armor and Ship Builders' Company, and had her bottom cleaned and newly painted, and then not one year old, and had her in all respects fitted to perform the voyage to New Orleans; that at that time she was entirely free from all worms, and had never been in the least affected or impaired by the worms; that he sailed from Philadelphia on the 24th of June, 1865, and arrived at New Orleans in good order and condition, with the said cargo of coal, at which place she was discharged by the navy agent, Commander Downes, and my charter was then performed and accomplished; that the brig, at the time she was in New Orleans, was free from worms, nor could she have been wormed since she left Philadelphia; that afterwards, at New Orleans, she was seized by J. A. Norton, assistant quartermaster, as a military necessity, and was ordered to Galveston, Texas; that I, the said John Morton, protested against said voyage to Galveston, and stated that she was a new vessel, and then free from worms; that Galveston was a place infected with worms, which were very destructive to a new vessel, and that this brig was on a single bottom, and would be eaten by worms, especially at that season of the year; but the said assistant quartermaster replied that if your affiant would not go, he would put in another master; and thus, your affiant alleges that he was compelled to go to Galveston, and that he did go with said brig to Galveston, and faithfully performed the voyage, and delivered the coal for the government, and no charges were made against his brig; and the said Morton alleges that he was so detained at Galveston, by the assistant quartermaster; that he lost the offer of a charter for his brig to New York—a full cargo of cotton, on and under deck, at two cents per pound—which he could not obtain after he was discharged, by which he lost two thousand dollars in his freight which he was afterwards obliged to take; that when he arrived in New York, which he did after being overtaken by a hurricane, the bottom of the brig was so eaten by the worms that, when she was taken out on the dock by Messrs. Hall, Cornish & Co., of New York, on examination it was found necessary to tar her bottom and put on a coat of felt, under her suit of yellow metal, to stop the worm holes, and to fit her for sea; that your affiant found, before the said brig was taken on the dock, that she began to leak; and the said Morton alleges that the said brig was worth \$30,000 when she was in Philadelphia; that she will require a suit of new plank on her bottom; and when these necessary repairs are made, the brig is then so permanently injured by the worms, and so reduced in her class, that on sale she will not bring so much as she would have brought before she was wormed by five thousand dollars, at least, and I think she would not sell for twenty thousand dollars, and I think her permanent injury may be fifteen thousand dollars.

The brig was afterwards chartered by Messrs. Brown & Vanderbilt, of New York, to Savannah, Georgia, and they refused to pay the charter because she rated so low, and now still refuse to pay it, and it is not now paid; and this

injury to the brig was done by the worms, at Galveston, while in the service of the government, as stated above.

JOHN MORTON.

Subscribed and sworn to, the day and year first above written, by the said John Morton, before me.

NATH'L M. PIKE,  
*Said Trial Justice.*

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I, Daniel H. Morton, of New Castle, in the county of Lincoln, and State of Maine, do hereby certify and say that I was first mate of the brig Ocean Belle, Bath, Maine, from the time she was launched and went to sea to the time she was seized at New Orleans, Louisiana, by the United States government; under military necessity, August 9, 1865, to be used for a transport vessel; that said vessel was taken upon the railway at Philadelphia, Pennsylvania, had her bottom scraped, thoroughly cleaned and newly painted, immediately before her passage from Philadelphia to New Orleans, where she was seized as aforesaid; that I then and there carefully examined her bottom and found it entirely free from worms and in good seaworthy condition. And I further say that, judging from where the brig had been after being renovated as aforesaid, her appearance, and according to my best knowledge and belief, she was free from worms and in good, seaworthy condition when seized as aforesaid.

DANIEL H. MORTON,  
*Said First Mate.*

NEW CASTLE, *December 26, 1866.*

NEW CASTLE, *December 26, 1866.*

STATE OF MAINE, *County of Lincoln, ss:*

The foregoing statement was signed and sworn to by the aforesaid Daniel H. Morton, this day, before me.

NATH'L M. PIKE, *Justice of the Peace.*

STATE OF MAINE, *Lincoln, ss:*

I, George B. Sawyer, clerk of the supreme judicial court within and for the county of Lincoln, (the same being a court of record,) do hereby certify that Nathaniel M. Pike, esq., whose name is affixed to the annexed papers as a trial justice in and for said county, was on the day of the dates thereof legally commissioned and duly qualified to act as such, and that the signatures to the annexed papers purporting to be his are genuine, and that he is authorized by the laws of this State to administer and certify oaths and take acknowledgments.

In testimony whereof I have hereunto set my hand and affixed the seal of the said supreme court, this second day of January, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.]

GEO. B. SAWYER, *Clerk.*

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We, the undersigned, do depose and swear that in the month of June, of the year eighteen hundred and sixty-five, the brig Ocean Belle, of Bath, Captain Morton, was taken up on the marine railway of the National Iron Armor and Ship-building Company, at Kaighn's Point, New Jersey, where she was put in good order, and her bottom thoroughly calked.

That the said vessel's bottom was free from any damage by worms at that time.

WM. C. MILLIGAN,  
*Pres't N. I. A. and S. B. Co.*  
ADAM MOWERS,  
*Sup't of Railway*

KAIGHN'S POINT, N. J., *January 3, 1867.*

STATE OF NEW JERSEY, *Camden County*, ss :

Personally appeared before me, clerk of the court of common pleas of said county, William C. Milligan, president, and Adam Mowers, superintendent, and being duly sworn, saith that the facts, matters, and things set forth in the above statement are true to the best of their knowledge and belief.

Sworn and subscribed to this 3d day of January, A. D. 1867.

[SEAL.]

THOS. M. K. DEEDS, *Clerk*.

The undersigned, lately doing business in this city as commission merchants and ship brokers, under the name and style of C. C. Duncan & Co., do hereby declare and make oath that during the month of February, 1866, the brig Ocean Belle, Captain John Morton, was in this port, and consigned to their address, and the business of said brig was transacted by them; that while so under their care the said brig, being very leaky, was put on dry dock for examination and survey; that it was discovered there and then that she was badly wormed in the bottom, and that the leaks were caused by being so wormed; that in order to stop the leaks and render the vessel seaworthy it was deemed necessary to strip off all the plank from the bottom and replank the same with new plank; but as this at that season of the year would have been very expensive and inconvenient, it was decided to cover the bottom with a coat of tar and felt, and to sheath with metal over it, which was done, and the expense of so doing is truthfully represented in the following bills, say—

W. A. Freeborn's bill of metal .....	\$1,783 06
Hall, Cornish & Co., carpenters .....	1,326 89
W. D. Dunlay, punching metal .....	12 15
Hull surveys .....	17 75
Scraping and cleaning .....	27 00
Towage to dock .....	8 00
Painting .....	190 00
Dry dock .....	87 90
	<hr/>
	3,453 05
	<hr/>

That all of the above bills, except perhaps that for painting, were caused by the vessel having been wormed, and all, with the exception of W. A. Freeborn's bill for metal, were paid by these deponents; that in their opinion a new suit of plank, as before stated, would cost five thousand dollars, and that to that amount the said bring was injured by said worming; that even after she had been repaired as above stated, the underwriters of New York marked her rate down on account of her bottom being wormy, so that the charterer on the next voyage claims to have suffered loss by reason of such marking down, and has refused and still refuses to pay the whole of said charter.

CHAS. C. DUNCAN,  
GEO. W. KENDALL.

NEW YORK, *December 28, 1866.*

CITY AND COUNTY OF NEW YORK :

This day personally appeared before me, a notary public, the above-named Chas. C. Duncan and George W. Kendall, and made oath that the above is a true and correct statement.

In testimony whereof I have hereto set my hand and affixed my notarial seal, the day and year above written.

[SEAL.]

TH. WUNDERLICH,  
*Notary Public.*

JANUARY 27, 1867.

COUNTY OF LINCOLN, *State of Maine* :

I, Silas M. Morton, of Waldoboro, under oath, have been master of vessels twenty years, of the Heron, Caribbean, Juniata, Angola, and Ocean Wave, and I can say to the best of my knowledge and experience that there is no danger in going to New Orleans on a single bottom by worms, and more especially if the vessel was taken out on the railway at Philadelphia and her bottom cleaned, because a vessel is never thought to get wormed on a clean bottom. It has always been my experience that ship-masters and owners would take a new ship and go to New Orleans and to some port in Europe before they would copper, and consider it perfectly safe on the account of worms, and oftentimes go several voyages on a single bottom before they would copper; and my experience has been that small vessels, such as brigs and schooners, have ran back and forth from New Orleans to New York, Philadelphia, and Boston, for years on a single bottom; and furthermore, a new vessel that was well painted on the stocks, and well dried, and not over a year old, I should think perfectly safe.

SILAS M. MORTON.

JANUARY 7, 1867.

MAINE, *Lincoln, ss* :

Personally appeared the above-named Silas M. Morton, and made oath that the above deposition by him signed is true. Before me,

[SEAL.]

GEORGE ALLEN,  
*Notary Public.*

I, James A. Hoffser, the undersigned, of Waldoboro, Maine, January 5, 1867, on oath depose and say that I have been a ship-master for ten years past; that I was master of the brig Leviathan, at New Orleans; that from my knowledge and experience it is the common practice to send new vessels on a single bottom and often go several voyages to Europe and New Orleans on a single bottom, and that, too, without any danger of being injured by worms; and from my knowledge and experience I could say, if a vessel were in Philadelphia, and there taken out of the water and on the dock, and there found to be free from worms, she could not, in my opinion, have got wormed on the passage to New Orleans, and on her arrival at New Orleans would not be injured by worms; it is well known that the Mississippi river water kills all worms in the bottom of a vessel.

JAMES A. HOFFSER.

STATE OF MAINE, *Lincoln County, ss* :

Personally appeared the above-named James A. Hoffser, and made oath to the truth of the above deposition, by him subscribed before me.

[SEAL.]

GEORGE ALLEN, *Notary Public.*STATE OF MAINE, *Lincoln County, ss* :

I, George B. Sawyer, clerk of the supreme judicial court within and for the county of Lincoln, (the said court being a court of record,) do hereby certify that George Allen, esquire, whose name is twice affixed to the annexed paper, as a notary public in and for said county, was, on the days of the dates thereof, legally commissioned and duly qualified to act as such; and that the signatures to the annexed paper purporting to be his are genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the said supreme judicial court, this ninth day of January, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.]

GEORGE B. SAWYER, *Clerk.*

JANUARY 2, 1867.

STATE OF MAINE, *Lincoln County, ss :*

And now we, James Nichols and Thomas Nichols, of Bristol, Maine, on oath depose and make the following answers to the following, viz., and each for himself respectively says :

Q. How long have you been shipmasters ?

A. We have been shipmasters fifteen years and sailed to New Orleans and other gulf ports during that time, and have sailed there several times in vessels on single bottoms, and in so sailing in the gulf to New Orleans and Mobile, on a single bottom, our vessels never got wormed, or affected by worms, and we both have sailed the ship E. Wilder Farley to New Orleans and Mobile three voyages on single bottom and never got her mark by worms during that time. We consider Galveston a dangerous port for worms during the summer season. We should not think by a vessel lying in port one day dangerous to get wormed. It is our opinion that a vessel that was free and clear of worms in Philadelphia and there bottom clean and painted, and then sail the vessel from there to New Orleans, would not, in our opinion, be at all likely to get wormed or affected by worms during her passage.

THOMAS NICHOLS.  
JAMES NICHOLS.

JANUARY 1, 1867.

LINCOLN COUNTY, *ss :*

Personally appeared the above named Thomas Nichols and James Nichols and severally made oath to the truth of the above affidavit, by them subscribed before me.

LEANDER MORTON,  
*Justice of the Peace.*

STATE OF MAINE, *Lincoln County, ss :*

I, George B. Sawyer, clerk of the supreme judicial court, within and for the county of Lincoln, (the said court being a court of record,) do hereby certify that Leander Morton, esquire, whose name is affixed to the annexed paper, as a justice of the peace in and for said county, was, on the day of the date thereof, legally commissioned and duly qualified to act as such, and that the signature to the annexed paper purporting to be his is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said supreme judicial court, this ninth day of January, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.]

GEORGE B. SAWYER, *Clerk.*

JANUARY 25, 1867.

STATE OF MAINE, *Lincoln County, ss :*

And now, James D. Richards, of Bristol, Maine, personally appears and deposes on oath and says : I was at Philadelphia in April, 1865, master of the schooner Wings of the Morning, where I loaded with coal for the government and arrived in New Orleans by the way of Pensacola, and from there was or-



dered to Mobile and from there back to New Orleans. When I was at the same time the brig Ocean Belle, Captain Morton, was there in August, 1865. That I knew Captain Morton, and knew that he opposed the order of Captain Norton, assistant quartermaster, to go to Galveston, because it was a bad place for worms, and that his brig was new and on her single bottom, but was compelled to go the voyage. My schooner was on a single bottom, and in all the voyages above to New Orleans and back to Boston was not injured by worms.

JAMES D. RICHARDS.

JANUARY 25, 1867.

LINCOLN COUNTY, ss :

Sworn to and subscribed before me.

LEANDER MORTON,  
*Justice of the Peace.*

STATE OF MAINE, *Lincoln County*, ss :

I, George B. Sawyer, clerk of the supreme judicial court within and for the county of Lincoln, (the said court being a court of record,) do hereby certify that Leander Morton, esquire, whose name is affixed to the annexed paper as a justice of the peace, in and for said county, was, on the day of the date thereof, legally commissioned and duly qualified to act as such; and that the signature to the annexed paper purporting to be his is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said supreme judicial court, this twenty-ninth day of January, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.]

GEO. B. SAWYER, *Clerk.*

NEW YORK, *November 28, 1865.*

*Brig Ocean Belle & Co., to William A. Freeborn & Co., DR.*

To 810 sheets steel metal, 125, 16,	596	
125, 16,	597	
125, 16,	598	
125, 16,	596	
115, 18,	616	
115, 18,	615	
115, 18,	618	
845,	4, 236	
Returned . . . . . 35,	175	
810,	4, 061, at 36 cents . . . . .	\$1, 461 96
Cartage . . . . .		1 75
Coarse nails . . . . 550		
Returned . . . . . 33		
— 517 lbs., at 36 cents . . . . .		186 12
To 850 sheets felt, 20 × 32, at 10 cents . . . . .		85 00
To 22 lbs. steel metal, at 38 cents . . . . .		8 36
To 5 lbs. steel nails, at 36 cents . . . . .		1 80
To 5 lbs. zinc tacks, at 30 cents . . . . .		1 50
To 2 lbs. comp. spikes, at 36 cents . . . . .		72
		1, 747 21



CR.

By 20 lbs. scrap metal, at 24 cents .....	\$4 80
	<hr/>
	1,742 41
September 29, 1866. By cash on account .....	950 00
	<hr/>
Total .....	792 41
	<hr/> <hr/>

CITY AND COUNTY OF NEW YORK, ss :

James F. Freeborn, jr., being duly sworn, says that he is one of the firm of William A. Freeborn & Co.; that the above account is a true and correct statement of the transactions between said firm and the brig Ocean Belle and owners, and that the merchandise therein stated has been duly furnished and delivered to said brig Ocean Belle, and that the prices charged therefor are reasonable and just; and that the amount of seven hundred and ninety-two dollars and forty-one cents is now justly due from said brig Ocean Belle and owners to the said firm of William A. Freeborn & Co., with interest on the sum of \$1,742 41 from November 28, 1865, to September 29, 1866, and upon the sum of \$—— from September 29, 1866, to the date of payment.

J. F. FREEBORN, JR.

Sworn to before me this 7th day of January, 1867.

[SEAL.]

EUGENE H. POMEROY,  
*Commissioner of Deeds, New York City.**Additional depositions of Messrs. Willard Hall and Washington D. Merritt.*

In the matter of the claim of the owners of the brig Ocean Belle, impressed at New Orleans by the United States, for worming at Galveston while under impressment.

CITY AND COUNTY AND STATE OF NEW YORK, ss :

Willard Hall and Washington D. Merritt, being each duly sworn, say, and each for himself says, as follows :

We are of the firm of Hall, Cornish & Company, of this city, and have had more than twenty (20) years' experience in repairing ships damaged by worms on the coast of Louisiana and Texas. We repaired in November, 1865, the brig Ocean Belle, Captain Morton, damaged by worms at Galveston, Texas, while in government service, under impressment. She had then just arrived from Galveston, coming direct to New York, stopping a half a day only at Key West to get a spare sail to replace one blown away in a gale while bound from Galveston to New York, on said voyage.

That, on arriving at New York, we took the brig out of water upon the ways, and found her very badly wormed, and the worms still alive in her.

We know, from our experience in these matters, that a vessel does not get wormed while in motion in the waters of the Gulf of Mexico. She must be still for some time in the waters infested with worms to enable them to fasten to her, else she cannot get wormed. Vessels never get wormed at New Orleans, as that is fresh water and is fatal to this kind of worms. They can't live there, and this brig, when impressed at New Orleans in August, 1865, could not by any possibility have been wormed. She was a new vessel, less than a year old, and had never lain in water where she could have got wormed. Hence we say

she had no worms in her when impressed. A vessel like the Ocean Belle, not protected against worms by metal, lying a few weeks at Galveston in warm weather, as she did, is certain to get wormed. The worms are killed by taking the vessel into fresh water for some days, like that at New Orleans, or by taking her out of water, as we did at New York. As this brig came direct from Galveston here, the worms that got into her at Galveston were alive and in full operation when we took her out of water, as we supposed merely to recalk and paint her, but finding her alive with worms, we had to kill the worms and repair the damage done by them. This we did by a coat of tar, then of felt, and then a coat of metal, and then of paint above the metal.

This is only temporary repairs, and did not by several thousand dollars make her worth as much as she would have been at that time if not wormed. Full repairs of the damage caused by these worms could only be made by stripping her and replanking her, and then she would not be as good as before wormed, since the frame would be weakened by the new auger-holes made on replanking, and the treenails would not hold as well as those put in when she was new. Before she was wormed she was valued by the insurance companies at \$25,000, and was worth more than that. After she was wormed and repaired she was not worth so much on account of the worming by several thousand dollars. The insurance companies reduced her rating from A1½ to A2½.

She was chartered as soon as repaired, and performed the charter, but on account of her rate being reduced by the worming, the charterers have refused to pay the charter money. It was and is difficult to get cargo for her, as the insurance on cargo in her is so high, on account of having been wormed. She will soon require the worm-eaten planks to be taken out, and will have to be replanked at a cost of at least \$4,000.

Hereto annexed, marked Exhibit A, and forming part of this deposition, is our bill of repairs. They were all made necessary by the worming, and are reasonable and proper, and are at the rates then charged and paid at this port at that time.

The amount is \$1,333 38. This is only a part of the repairs put upon her. W. A. Freeborn & Co. furnished the suit of metal put on her to cover up the worm-holes. The exact amount paid for the metal we do not now recollect, but it was nearly two thousand dollars.

In addition to the above, there was paid for the use of dry dock while she was repairing, the usual bill, amounting to eighty-seven dollars and ninety cents, (\$87 90.) Hereto annexed, marked Exhibit B, and forming part of this deposition, is said dock bill.

WILLARD HALL.  
W. D. MERRITT.

Sworn to before me this tenth day of January, 1867.

[SEAL.]

LEVI GRAY,  
Notary Public, New York City.

#### EXHIBIT A.

NEW YORK, December 9, 1865.

*Brig Ocean Belle and owners to Hall, Cornish & Co., shipwrights, calkers, and spar makers—yard 256 South street, opposite sectional dry dock—DR.*

To 36 hard-wood wedges, at 6 cents.....	\$2 16
40 pounds iron spikes, at 12 cents.....	4 80
12 locust treenails, 60 cents; 5 dozen plugs, 13 cents.....	73
550 feet white oak, at 9 cents.....	49 50
16 pounds cut nails, at 10 cents.....	1 60

UNPAID CLAIMS IN QUARTERMASTERS' DEPARTMENT. 31

110 pounds iron bolts, at 12 cents.....	\$13 20
1,020 pounds spun oakum, at 18 cents.....	183 60
105 feet white pine, at 6 cents.....	6 30
paid R. F. Seaman, 4 gallons metallic paint.....	24 00
2½ barrels Stockholm tar, at \$12.....	30 00
4 graining mops, \$3 60 ; 2 pitch mops, \$1 20.....	4 80
3 barrels pitch, at \$12.....	36 00
towing float stage to and from dock.....	6 50
use of wedges and dressers.....	1 50
carrying out metal.....	5 50
picking up nails.....	2 00
building stages, putting on felt, and running 810 sheets metal...	48 60
5 water-marks.....	1 50
13 turned oak stanchions, at 50 cents.....	6 50
2 brass screw-bolts, \$2 25 ; 2 iron screws, 25 cents.....	2 50
repairing blocks.....	2 50
cartage.....	8 25
151½ days' work, at \$4 90.....	742 35
6 days' work, foreman, at \$5 50.....	33 00
8 days' work, at \$3.....	24 00
1 main boom.....	75 00
30 feet white oak, at 9 cents.....	2 70
3 pounds galvanized nails, at 15 cents.....	45
1½ days' work, at \$4 90.....	7 35
	<hr/>
	1, 326 89

December 23—

To 6 pounds spun oakum, at 18 cents.....	\$1 08
1 day's work.....	4 90
4 feet oak'g, 36 cents ; spikes and plugs, 15 cents.....	51
	<hr/>
	6 49
	<hr/>
	1, 333 38
	<hr/> <hr/>

Received payment.

EXHIBIT B.

NEW YORK, November 28, 1865.

*Brig Ocean Belle and owners to Nelson & Townsend's dry dock, between piers  
52 and 53 East river, Dr.*

To docking 293 tons, at 30 cents.....	\$87 90
occupation of dock — days, — tons, at — cents per ton.	
Received payment.	

NELSON & TOWNSEND.

Oath of allegiance.

(This oath is required from pensioners once (on the first payment to new ones) who are native-born, or have been naturalized ; if a ward, from the guardian ; if dead, from the person or persons executing the vouchers. When those of foreign birth have not resided in the United States, the magistrate may certify

the same; but if they have, and do not owe allegiance, it should be properly explained. When a pension has been increased, and the oath has been previously furnished, it will not be required again of the pensioner.)

I, John Bulfinch, a citizen of the United States, do solemnly swear that I will support, protect, and defend the Constitution and government of the United States against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance, and loyalty to the same, any ordinance, resolution, or law of any State convention or legislature to the contrary notwithstanding; and further, that I do this with a full determination, pledge, and purpose, without any mental reservation or evasion whatever; and further, that I will well and faithfully perform all the duties which may be required of me by law. So help me God.

JOHN BULFINCH.

STATE OF MAINE, *County of Lincoln, ss:*

Subscribed and sworn to before me, this twenty-second day of September, 1866.

ALMON KENNEDY,  
*Justice of the Peace.*

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A. L. Allen, of the city of Bath, State of Maine, deposeth and saith as follows:

I am by profession a ship-builder, of twenty-five years' experience. During seven years, from 1851 to 1858, I built at Norfolk, Virginia, seventeen vessels, seven of which were for the government revenue service, among which were the Joe Lane and the Dobbin, I think still in the service. Marine worms abound in the harbor of Norfolk. I have known of many instances of their damaging vessels. From my knowledge of these worms, I would say that a vessel on a single bottom, *i. e.*, not coppered, could not lie in water infected with them more than eight or ten days before the worms would so fasten on her bottom that, when she left port, they would still remain in her and continue doing damage until the vessel is taken into fresh water, or put into dock, either of which will kill them. Where a vessel rating  $A1\frac{1}{2}$  (which is a good rate for vessels of the class of the brig Ocean Belle) can always obtain a first-class freight, the same kind of vessel rating  $A2\frac{1}{2}$  could not obtain said freight, and would, moreover, have to pay from three to four per cent. extra premium. I was on one occasion required by insurers to put a vessel in dry dock at Norfolk, in order to destroy the worms before going to sea; this vessel had been at Norfolk about three weeks. Worms will live and continue to do damage throughout a voyage. A new vessel, worth from \$25,000 to \$30,000, which has been rated down from  $A1\frac{1}{2}$  to  $A2\frac{1}{2}$ , would be reduced in value from \$5,000 to \$7,000, and the replanking her would cost from \$5,000 to \$6,000. The depreciation in her classification, and the necessary repairs to make her seaworthy, would be from \$10,000 to \$12,000. I knew the brig Ocean Belle while she was building, in 1864.

A. L. ALLEN.

Personally appeared this 2d day of March, 1867, before me, the subscriber, a justice of the peace within and for the county of Washington and District of Columbia, A. L. Allen, whose name is attached to the above statement, who, having been duly sworn, made oath that the facts as therein set forth are true, to the best of his knowledge and belief.

Witness my hand and seal this 2d day of March, 1867.

[SEAL.]

THOS. D. HODGKIN,  
*Justice of the Peace.*

I, William M. Thackara, of the firm of Workman & Co., Philadelphia, do depose and swear that our firm chartered to the Navy Department the brig Ocean Belle for a cargo of coal to New Orleans, via Southwest Pass, in month of June, 1865; that the said vessel sailed from Philadelphia on or about June 23, 1865, with five hundred and six (506) tons coal, and the rate of freight on said coal was ten dollars per ton to New Orleans, which was paid us by the Navy Department, on surrender of bills of lading stating said cargo had been received there. Our firm never were paid or received any compensation for the voyage of said vessel from New Orleans to Galveston, where the cargo was afterwards ordered, and, we understood, was transferred from Navy Department to War Department.

WM. M. THACKARA.

Sworn to and subscribed before me, an alderman of the city of Philadelphia, this twenty-ninth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

W. W. DOUGHIRTY, *Alderman*.

And now I, John Bulfinch, of Waldoboro, Maine, on oath testify and say, that I am managing owner of the brig Ocean Belle, of Bath, Maine, Captain John Morton; that I was at Philadelphia in the months of May and June, A. D. 1865, superintending the business about the said brig, which was at that time taken out on the dock of the Iron Armor Company, and a piece put in her keel and her bottom frayed; that the said brig was chartered at this time by Messrs. Workman & Co., our agents there, to carry a cargo of coal from Philadelphia to New Orleans, for the navy of the United States, at \$10 per ton, as stated to me by Captain John Morton and by Messrs Workman & Co., and to which I gave my consent; and I further testify and say that, at that time and there, no intimation was made to me by any one that the said brig was, in any event or on any contingency, to go to Galveston or any Gulf port other than New Orleans. As my brig was new, and from my information of Galveston as a place infested with marine worms—which are sure, at that season, to destroy the bottom of a vessel—I would not, on any condition, have given my consent to such voyage. I further testify and say, that I have not received any pay for any parts of the freight or damage, or for detention of my brig for the voyage from New Orleans to Galveston, on her discharge of the aforesaid freight at New Orleans, nor have I any reason to suppose that any person has received any part of said last-mentioned freight or damages on my account.

JOHN BULFINCH.

Subscribed and sworn to before me this 29th March, 1867.

[SEAL.]

CHARLES WALTER, *Notary Public*.

COMMONWEALTH OF MASSACHUSETTS, *County of Suffolk, ss:*

*To all to whom these presents shall come, greeting:* Know ye that on this 26th day of March, A. D. 1867, before me, Richard S. Haven, a notary public, duly commissioned and sworn in and for the county aforesaid, practicing in the city of Boston, personally appeared John Morton, of New Castle, Maine, who, being by me duly sworn according to law, did depose and say as follows, to wit: That I was master of the brig Ocean Belle of Bath, Maine, and in that capacity I carried in my said vessel a cargo of coal, for the United States of America, from

Philadelphia to New Orleans, arriving at the latter port in the month of August, A. D. 1865; that the bill of lading for said cargo had no indorsement upon it of any kind whatsoever, until my said cargo was received at that port by the United States government, when its receipt only was duly indorsed thereon, but no other indorsement. And further, I positively declare that I never agreed to go to Galveston; that no such indorsement ever was made on my bill of lading, and that I persistently and steadily protested against going there, when ordered so to do by the United States quartermaster, the more especially that my said vessel was new and was not coppered, and I positively deny that, by any word or deed, did I ever manifest any but a firm desire not to go to that port (Galveston.)

JOHN MORTON.

Subscribed and sworn to before me this 26th day of March, A. D. 1867.

[SEAL]

RICH. S. HAVEN, *Notary Public.*

And the said deponent further declares that the acting quartermaster at Galveston, George E. Atwood, (captain,) never paid him anything.

JOHN MORTON.

Subscribed and sworn to before me this 26th day of March, A. D. 1867.

[SEAL.]

RICH. S. HAVEN, *Notary Public.*

COMMONWEALTH OF MASSACHUSETTS, *County of Suffolk, ss :*

Be it known and made manifest to all to whom it doth or may concern, that on this fifteenth day of March, in the year of our Lord one thousand eight hundred and sixty-seven, before me, Richard S. Haven, a notary public, duly commissioned and sworn and practicing in the city of Boston, personally came and appeared John Morton, master of the brig Ocean Belle, belonging to the port of Bath, who being duly sworn did depose and say, that on the fourth day of August, one thousand eight hundred and sixty-five, he, this deponent, arrived in and with the said brig at the port of New Orleans. That he sailed thence on the fourteenth day of August for the port of Galveston, where he arrived on the twenty-second of the same month; and that he sailed in and with the said brig from the said port of Galveston on the third day of October for the port of New York, where he arrived on the fourteenth of November, one thousand eight hundred and sixty-five.

JOHN MORTON.

Subscribed and sworn to before me this fifteenth day of March, 1867.

RICHARD S. HAVEN,  
*Notary Public.*

And I, the said notary public, do certify that I have examined the log-book of the said brig Ocean Belle, and find the facts sworn to by the said John Morton to be strictly in conformity therewith.

[SEAL.]

RICHARD S. HAVEN,  
*Notary Public.*

COMMONWEALTH OF MASSACHUSETTS, *County of Lincoln, ss :*

Be it known and made manifest to all to whom it doth and may concern, that on this fifteenth day of March, in the year of our Lord one thousand eight hundred and sixty-seven, before me Richard S. Haven, a notary public, duly com-



missioned and sworn and practicing in the city of Boston, personally came and appeared John Morton, master of the brig Ocean Belle, belonging to the port of Bath, who being duly sworn did depose and say that he stopped at the Southwest Pass, Mississippi river, on government account with a cargo of coal for the United States.

JOHN MORTON.

Subscribed and sworn to before me this fifteenth day of March, 1867.

RICHARD S. HAVEN,  
*Notary Public.*

And I, the said notary public, do certify that I have examined the log-book of the said brig Ocean Belle, and find the facts sworn to by the said John Morton to be strictly in conformity therewith.

[SEAL.]

RICHARD S. HAVEN,  
*Notary Public.*

COMMONWEALTH OF MASSACHUSETTS, SECRETARY'S OFFICE,  
*Boston, March 15, 1867.*

I hereby certify that on the 10th of September, 1865, Richard S. Haven was appointed for the term of seven years a notary public for the county of Suffolk, in the said Commonwealth, duly commissioned and constituted, and that to his acts and attestations as such full faith and credit are and ought to be given in and out of court. Said R. S. Haven was qualified September 21, 1865.

In testimony of which I have hereunto affixed the seal of the Commonwealth the date above written.

[SEAL.]

OLIVER WAINE,  
*Secretary of the Commonwealth.*

BOSTON, *February 28, 1867.*

SIR: Mr. Bulfinch tells me that a question has arisen as to whether nineteen days lying in port is sufficient time to allow the towed to bore into the bottom of the vessel so as to adhere and penetrate the planks. I think a much shorter time sufficient for that purpose. That has been my observation.

Yours, &c., &c.,

T. A. PIKE.

Hon. JOHN WILSON, *Auditor, &c.*

WASHINGTON, D. C., *July 11, 1867.*

DEAR SIR: I shall be greatly obliged if you will facilitate the business which the bearer of this note, John Bulfinch, esquire, will bring to your attention. Mr. Bulfinch is a constituent of mine and a very worthy and deserving gentleman.

Very respectfully, &c.,

J. G. BLAINE.

Hon. JOHN WILSON.

QUARTERMASTER GENERAL'S OFFICE, WASHINGTON, D. C.,  
*November 15, 1866.*

SIR: The case of the claim of Mr. John Bulfinch for services of and damages to the brig Ocean Belle while in the service of the United States having been



under consideration in this office, it is deemed necessary that evidence of the amount of repairs other than that filed in the case should be furnished before the claim can be submitted to the Third Auditor for his official action. You will therefore please cause to be forwarded the original bills of repairs to the vessel, properly sworn to, and such evidence as you may possess that the vessel was not wormed before she was seized by the United States authorities at New Orleans, in order that this department may act understandingly in the case.

By order of the Quartermaster General:

Very respectfully, your obedient servant,

GEORGE D. WISE,

*Col. Q. M. Dep't, Brevet Brig. Gen., in charge of 3d Division.*

G. E. ATWOOD, Esq.,

*Attorney for John Bulfinch, Waldoboro, Maine.*

OFFICE ASSISTANT QUARTERMASTER UNITED STATES ARMY,  
*New Orleans, Louisiana, February 12, 1867.*

GENERAL: I have the honor to return herewith the claim, and papers pertaining thereto, of John Bulfinch, for the services rendered and damages alleged to have been sustained by the brig Ocean Belle while in the service of the United States quartermasters' department, referred to this office for report.

I would respectfully state that, from the records of this office, it appears that the brig Ocean Belle entered the service of the quartermasters' department at New Orleans, Louisiana, on the 9th day of August, 1865, having on board 506 tons anthracite coal, transferred to this department by the United States navy.

The quartermasters' department discharged a portion of said cargo in this city, and ordered the vessel to proceed to Galveston, Texas, and discharge the remainder, as contemplated in the bill of lading upon which the coal was originally shipped at Philadelphia, Pennsylvania.

The brig did not discharge cargo while in the service of the navy, and the indorsement on bill of lading that cargo was received in good order and the vessel discharged was in consequence of the quartermasters' department receiving the coal, and also the vessel, on the same conditions that might have been enforced by the officers of the navy, had she remained in their service; and the questions arise, was the vessel as liable, in conformity with her engagement on entering the service of the United States, to be sent to Galveston to discharge by the quartermasters' department as to discharge cargo in this city? Was her contract with the government completed until said cargo was discharged from the vessel, notwithstanding the transfer from the Navy to the quartermasters' department?

There is no record on file in this office to show that the transfer of the coal and the vessel to this department was not perfectly satisfactory to the owners of the vessel and in conformity with the vessel's contract.

There is no copy of the protest alleged to have been made by the master of the vessel on file in this office; and it is considered that any such protest would not have been in keeping with his engagement, as shown by the bill of lading, that the vessel *may* be sent to the Texas coast.

The vessel remained at Galveston, Texas, twelve (12) days, and it is quite improbable that the alleged damage could have occurred during that time; and the statement that the damage did take place while in the service of this department is equally improbable.

There is no record on file in this office to show why this vessel was delayed twelve (12) days to discharge less than two hundred tons of coal.

Very respectfully, your obedient servant,

A. J. McGONNIGLE,

*Captain and Assistant Quartermaster U. S. A.*

Brevet Brigadier General C. G. SAWTELLE,

*Chief Quartermaster, Department of the Gulf,*

*New Orleans, Louisiana.*

OFFICE CHIEF QUARTERMASTER, DEPARTMENT OF THE GULF,

*New Orleans, La., February 14, 1867.*

GENERAL: I have the honor to return herewith the claim of J. Bulfinch for services of brig Ocean Belle, and for damage alleged to have occurred to said vessel by reason of her having been worm-eaten in the harbor of Galveston, Texas. I return herewith all papers referred to me in connection with this claim; also a report from Captain A. J. McGonnigle, assistant quartermaster, in charge of water transportation at this depot, marked A. My opinion is that the vessel is entitled, according to forms of bill of lading, to demurrage for ten days and three hours, actual time of detention at New Orleans and Galveston over and above lay days provided for. Owners claim \$4,000 for damage by worms. I would respectfully represent that, in my opinion, the claim for damage is not a just claim, and should not be entertained at all.

As the vessel took but 186½ tons of coal from New Orleans to Galveston, she went on the voyage in but little more than ballast trim; therefore not a large portion of her hull was exposed to the action of worms, and she remained in harbor at Galveston but twelve days up to date of her discharge. For such time as she laid in that harbor, or in wormy waters, after her discharge, government is not responsible, or for damage from worms occasioned thereby. It is highly improbable that a vessel in good order should become worm-eaten in nineteen days, five days of which time she was in motion.

Attention is respectfully called to the fact that no record appears in this office of any protest having been made by the master of the vessel, as alleged, when ordered to Galveston; nor does the fact of such protest having been made appear in the extract of the vessel's log at the time.

Very respectfully, your obedient servant,

C. G. SAWTELLE,

*Brevet Brig. Gen. and Chief Quartermaster Dep't of Gulf.*

Major General M. C. MEIGS,

*Quartermaster General U. S. Army, Washington, D. C.*

PHILADELPHIA, May 6, 1867.

SIR: I am directed by Commodore H. A. Adams to inform you that he has received your communication of the 30th of April, relating to the matter of the brig Ocean Belle; also to state to you that he is too ill to write himself, but that, in his opinion, under the charter, the government had undoubted right to send the vessel to the coast of Texas, according to the stipulation indorsed on the bill of lading, which was perfectly understood by the persons who chartered the vessel to the government and by the master of the vessel at that time.

Very respectfully, your obedient servant,

H. A. ADAMS, JR.,

*Commodore United States Navy.*

Brigadier General GEO. D. WISE,

*Washington, D. C.*

WASHINGTON, D. C., *June 15, 1867.*

SIR: While I know that all, and more than all, that was allowed me in the matter of the Ocean Belle by the Third Auditor's report is justly my due, yet, in consequence of my having been in this city five months, and the state of my health, and to prevent further delay, as the Third Auditor declines to entertain my claim as now presented, I am compelled to adjust my claim according to the report of General Canby, which you have approved; and I now respectfully ask that you may order a requisition at once for the sum of \$2,800, exclusive of pilotage and port charges.

I have the honor to be, most respectfully, your obedient servant,  
JOHN BULFINCH.

Hon. E. M. STANTON,  
*Secretary of War.*

[Indorsement.]

Referred to the Quartermaster General, who will issue requisition for the sum of \$2,800, reported in favor of the claimant by the Claims Commission. Leave is given claimant to present proofs of the amount of pilotage and port charges paid by him, in accordance with report of Claims Commission.

E. M. STANTON,  
*Secretary of War.*

JUNE 15, 1867.

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QUARTERMASTER GENERAL'S OFFICE,  
*Washington, D. C., June 15, 1867.*

SIR: The Secretary of War orders a request for \$2,800 on the settlement 3,391, April 29, 1867, to be issued as payment to Mr. Bulfinch, leaving the question of pilotage and port charges for future action.

In order to carry out the order of the Secretary of War, I request the return of the papers in the case, which, with the settlement, were forwarded to your office yesterday for re-examination, including Quartermaster General's letter of 14th instant.

Very respectfully, your obedient servant,

D. H. RUCKER,  
*Acting Quartermaster General, Brevet Major General U. S. A.*

Hon. JOHN WILSON,  
*Third Auditor Treasury Department.*

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QUARTERMASTER GENERAL'S OFFICE,  
*Washington, D. C., June 18, 1867.*

SIR: I return herewith the papers in the claim of John Bulfinch for compensation for services of, and damages alleged to have been sustained by, the brig Ocean Belle, sent to this office in compliance with a request of the 29th April, 1867, for examination, and which were returned, resubmitting the case to the Third Auditor, on the 14th instant, and recalled by letter of the 15th instant.

Very respectfully, your obedient servant,

D. H. RUCKER,  
*Acting Quartermaster General, Brevet Major General U. S. A.*

Hon. JOHN WILSON,  
*Third Auditor Treasury Department.*





LETTER  
OF  
THE SECRETARY OF THE TREASURY,

COMMUNICATING,

*In compliance with a resolution of the Senate, of the 3d instant, information in relation to the amount of rent paid for public stores in the city of New York, and in relation to other locations for customs warehouses in said city.*

FEBRUARY 11, 1868.—Read, referred to the Committee on Finance, and ordered to be printed.

TREASURY DEPARTMENT,  
February 10, 1868.

SIR: In reply to the Senate resolution of the third instant, as to the amount of rent paid for public stores in the city of New York, and also whether a more suitable location or locations, in respect to safety and convenience, for customs warehouses, may not be obtained, and at a large saving of expense, I have the honor to enclose herewith a communication from the Supervising Architect, from which it will be seen that the annual rental of the buildings at present occupied is forty-eight thousand six hundred dollars, (\$48,600,) exclusive of the cost of alterations and repairs which were necessary to adapt them to the business of the department, and that the total cost of rent, repairs, and alterations, for the past five years, has been three hundred and two thousand two hundred and eighty-eight dollars and twenty-one cents, (\$302,288 21,) a sum nearly sufficient to erect buildings of suitable size, conveniently arranged for the proper transaction of the business.

I fully agree with the views of the architect in regard to securing a sufficient space on the Battery, where the proper isolation can be obtained, for the erection of suitable buildings for the entire customs department of the city of New York, believing that such a course would result in a large annual saving of expense, and is demanded both by the interests of the department and the commercial prosperity of the city.

An informal proposition has been made to the department on behalf of the commissioners of the sinking fund of the city of New York to dispose of a portion of the battery at a reasonable price for the purposes named. This being, in my opinion, the most eligible location that can be obtained, I would earnestly recommend to the favorable consideration of Congress the propriety of authorizing the department to take the necessary measures to secure the above mentioned property, and to erect convenient fire-proof structures for the customs business of the port of New York.

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. BENJAMIN F. WADE,  
President United States Senate pro tem.

## 2 RENT PAID FOR PUBLIC STORES IN NEW YORK CITY.

TREASURY DEPARTMENT,  
OFFICE OF THE SUPERVISING ARCHITECT,  
February 7, 1868.

SIR: In accordance with your instructions, I have the honor to report that there are at present but two buildings rented for customs business in the city of New York, viz: the warehouse No. 24 Cedar street, used for the storage of unclaimed merchandise, the annual rental of which is three thousand six hundred dollars, (\$3,600,) and the appraisers' stores fronting on Trinity Place and Greenwich street, which are rented of R. P. Getty & Son, at an annual rental of forty-five thousand dollars, (\$45,000,) on a three years' lease, expiring February 1, 1870. To this must be added the cost of fitting the building for the use of the department and the repairs which, as the department is prohibited by the act of March 28, 1854, from renting property for a longer period than three (3) years, is a very important item of the actual cost, as will be seen from the following statement of the expense of the present system for the past five years, viz:

1863—Rent of buildings.....	\$35,500 00	
Repairs and alterations.....	4,334 91	
	<hr/>	\$39,834 91
1864—Rent of buildings.....	35,833 33	
Repairs and alterations.....	8,140 46	
	<hr/>	43,973 79
1865—Rent of buildings.....	38,700 00	
Repairs and alterations.....	4,473 75	
	<hr/>	43,173 75
1866—Rent of buildings.....	39,600 00	
Repairs and alterations.....	15,521 00	
	<hr/>	55,121 00
1867—Rent of buildings.....	56,850 00	
Repairs and alterations.....	63,334 76	
	<hr/>	120,184 76
Total.....		<hr/> <hr/> 302,268 21

The large amount of expenditure indicated by the last item is accounted for by the fact that the department was compelled to remove from the buildings on Broadway to those at present occupied on Greenwich street and Trinity Place, the latter requiring a complete alteration and fitting up to adapt them to the appraiser's business. The amount expended for repairs and alterations is therefore strictly chargeable to the three years' occupancy of the premises, making the annual average expense \$66,667 32 to the expiration of the lease, February 1, 1870.

It will, therefore, be seen that under the present unsatisfactory and costly system, the department has in the short space of five years expended the sum of \$206,483 33 in rents alone, being an average of \$41,296 66 per annum, which is, at 7 3-10 per cent., the interest on \$565,707 67; a sum large enough to erect a suitable and durable building for the purpose.

It must also be remembered that neither the buildings at present occupied, nor any that can be obtained, are suitably arranged for the proper transaction of the business of the department, and as a consequence the cost of examining and handling is much greater than it would be in a convenient structure. They are also ordinary warehouses, possessing no greater security against fire than any other warehouses in the city of New York.

I cannot too strongly urge the importance, both to the department and the city of New York, of securing a sufficient space on the Battery and the erection



of suitable buildings for the customs department of that city. I feel confident that the location is the most eligible that can be obtained, and that in a comparatively short space of time the entire cost would be saved in rents, besides effecting a saving of a large contingent expense that is not exhibited in the above figures.

Very respectfully,

A. B. MULLETT,  
*Supervising Architect.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*



# LETTER OF THE SECRETARY OF WAR,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 13th instant, a statement showing the comparative rates now paid by the United States for the transportation of troops and military stores to the Union Pacific Railroad Company, to the Union Pacific Railroad Company, eastern division, and to the Chicago and Northwestern Railroad Company.*

FEBRUARY 14, 1868.—Read, referred to the Committee on the Pacific Railroad, and ordered to be printed.

WAR DEPARTMENT,  
Washington City, February 14, 1868.

SIR: In compliance with the Senate's resolution of February 13, 1868, I have the honor to send herewith a statement furnished by the Quartermaster General of the army, showing the comparative rates now paid by the United States for the transportation of troops and military stores to the Union Pacific Railroad Company, to the Union Pacific Railroad Company, eastern division, and to the Chicago and Northwestern Railroad Company.

## Comparative rates.

Road.	Distance to—	Miles.	Men.	Pound freight.				
				1st class.	2d class.	3d class.	4th class.	Special.
Union Pacific.....	North Platte.....	290	\$29 00	\$2 10	\$2 00	\$1 90	None....	\$1 40
U. P. R., E. D.....	Fort Hays.....	291	22 50	1 90	1 75	1 60	\$1 25	None.
Chicago and North-western.	Pro rata 490 miles.	290	12 93	1 18	1 10	95	80	None.
Excess of Union Pacific over E. D. rates. ....			29 p. c.	11 per ct.	14 per ct.	19 per ct.		

The Quartermaster General, in his report furnishing the information, remarks on the subject as follows :

I take the liberty of suggesting that a board be convened at Omaha or St. Louis or at Fort Leavenworth, to decide upon just and equitable rates to be paid by the United States for the transportation of troops and supplies over the Union Pacific Railroad and Union Pacific Railroad Company, eastern division.

Should the Quartermaster General's recommendation commend itself to Congress, the passage of a resolution embodying its provisions is respectfully suggested.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. B. F. WADE,  
President of the Senate.



LETTER  
OF  
THE SECRETARY OF WAR,  
COMMUNICATING,

*In compliance with a resolution of the Senate of the 13th instant, a report of the Commissary General of Subsistence, showing the quantity and money value of subsistence stores issued to Indians under charge of the Indian Bureau.*

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FEBRUARY 14, 1868.—Referred to the Committee on Military Affairs and the Militia and ordered to be printed.

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WAR DEPARTMENT,  
Washington City, February 14, 1868.

SIR: In compliance with a resolution of the Senate, dated February 13, 1868, I have the honor to send herewith a report by the Commissary General of Subsistence of January 31, 1868, showing the quantity and money value of subsistence stores issued to Indians under charge of the Indian Bureau, and for which payment has not been made to the War Department by the Department of the Interior.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

Hon. B. F. WADE,  
President of the Senate.

Statement showing the quantity and money value of subsistence stores issued to Indians from January, 1866, to October, 1867, inclusive. 2

SUBSISTENCE STORES ISSUED TO INDIANS.

Month.	Pork, pounds.	Bacon, pounds.	Shoulders, pounds.	Hams, pounds.	Horford's bread ra- tions, rations.	Fresh beef, pounds.	Pickled fish, pounds.	Mutton, pounds.	Flour, pounds.	Wheatmeal, pounds.	Hard bread, pounds.	Cornmeal, pounds.	Wheat, pounds.	Beans, pounds.	Peas, pounds.	Rice, pounds.	Hominy, pounds.
January, 1866.	7, 143½	10, 433½	511	3, 168½	880	204, 054½	11½	3, 430	17, 815½	80, 364	16, 701	14, 515	3, 024	4, 547½	172	530½	208½
February, 1866.	4, 034½	7, 984½	199	236½	564	157, 267½	11½	3, 785	21, 222	87, 618	23, 671½	5, 810	.....	1, 375½	58½	1, 772½	386½
March, 1866.	8, 487½	7, 029½	1, 173	3, 783½	.....	170, 258½	.....	5, 885	285, 552½	20, 770½	23, 288	9, 482½	.....	2, 712½	28½	1, 335½	1, 281
April, 1866.	17, 020½	7, 387½	6, 376	150	.....	185, 731	.....	340	36, 681½	.....	20, 484½	5, 978½	.....	1, 840½	.....	618	3, 712½
May, 1866.	23, 280½	5, 363½	26, 205½	.....	.....	341, 708	.....	.....	48, 016½	.....	93, 497½	66, 196½	.....	5, 504½	11, 828	207½	3, 926½
June, 1866.	6, 597½	3, 88½	7, 541	.....	.....	106, 591½	.....	.....	799, 794½	.....	9, 569½	1, 200	.....	10, 012½	1, 795	79	64
July, 1866.	1, 571	2, 552½	1, 041	1, 845½	.....	143, 238½	.....	693½	23, 514½	.....	12, 853½	.....	6, 743	1, 390	.....	133½	63½
August, 1866.	1, 415	1, 891½	1, 363	6, 182	.....	155, 897½	.....	96½	7, 691½	.....	10, 482½	.....	.....	871½	.....	44½	.....
September, 1866.	6, 147	1, 109½	.....	.....	.....	180, 129	.....	1, 162½	18, 904½	.....	5, 516½	100	.....	910½	.....	51½	.....
October, 1866.	5, 220½	1, 422½	636	.....	.....	170, 034½	.....	1, 268½	20, 302½	9, 750	2, 407½	100	.....	644½	.....	59½	100½
November, 1866.	5, 413½	6, 649½	.....	.....	.....	177, 996½	.....	1, 621½	18, 534½	21, 000	4, 213	200	.....	831	.....	33½	.....
December, 1866.	4, 06½	5, 862½	22½	56½	.....	213, 099½	.....	30	85, 021½	18, 600	1, 835½	2, 678	.....	762½	.....	19½	.....
January, 1867.	6, 865½	8, 497	45	4, 557	.....	206, 369	.....	628	130, 255½	24, 573	2, 835½	825	.....	899	.....	457½	6
February, 1867.	6, 153½	5, 256½	3, 322½	60	.....	233, 542½	.....	186	85, 135½	64, 112	3, 239½	462	5, 698	642	.....	25, 215	16, 445
March, 1867.	18, 935	1, 651½	7, 037½	38½	.....	241, 305½	.....	422	239, 712½	40, 724	1, 899½	3, 525	.....	1, 058½	.....	105½	1, 825
April, 1867.	11, 974½	3, 804½	3, 322½	.....	.....	243, 090½	.....	581	40, 304½	241, 021	3, 032	2, 087½	.....	2, 809½	.....	201½	225
May, 1867.	2, 873½	14, 977½	3, 000	1, 190½	.....	271, 814½	.....	595	53, 774½	87, 443	11, 844½	1, 600	.....	2, 898½	.....	1, 084½	496½
June, 1867.	5, 846½	2, 046	.....	.....	.....	236, 363½	.....	630	12, 167½	20, 250	11, 190½	.....	.....	2, 919½	.....	874½	4
July, 1867.	1, 128½	1, 448½	.....	.....	.....	252, 230½	.....	90	23, 534½	191, 015	6, 866½	1, 277½	.....	1, 868½	.....	358½	625½
August, 1867.	1, 077½	1, 486	.....	.....	.....	228, 224½	.....	390	16, 568½	97, 397	574½	200	.....	1, 596½	.....	5, 175½	3, 009
September, 1867.	1, 338½	10, 040½	.....	198	.....	245, 902½	.....	.....	27, 505½	211, 290	14, 813	3, 300	.....	849½	.....	487	.....
October, 1867.	652½	4, 953½	.....	.....	.....	250, 879½	.....	1, 542	13, 487½	192, 709	15, 712	50	.....	967½	.....	812½	2½
Total.	147, 197½	115, 647½	61, 795	21, 505½	1, 444	4, 615, 728½	22½	24, 248½	2, 025, 494½	1, 417, 946½	296, 519	119, 587½	15, 465	44, 909½	13, 882½	39, 656½	32, 821½

Statement showing the quantity and money value of subsistence stores issued to Indians, &c.—Continued.

Month.	Dried apples, pounds.	Green coffee, pounds.	Roasted coffee, pounds.	Roasted and ground coffee, pounds.	Tea, pounds.	Brown sugar, pounds.	Vinegar, gallons and gills.	Adamantine candles, pounds.	Soap, pounds.	Salt, pounds.	Pepper, pounds.	Molasses, gallons and gills.	Sirup, gallons and gills.	Decalcified potatoes, pounds.	Soft bread, pounds.	Corn, pounds.	Pigs' feet, barrels.	Joles, pounds.	Mixed vegetables, lbs.	Salt beef, pounds.	Dried fish, pounds.
January, 1866.	35	1,603½	296½	57½	65½	3,237½	65.7	23	551½	3,942	2	.8	2	6½	7,663	109,232	.....	.....	.....	.....	.....
February, 1866.	23	1,142½	459½	25½	3½	2,656½	67.20	39½	532½	3,518½	6½	.....	2	22½	6,692	88,248	.....	3 1,015	.....	.....	.....
March, 1866.	35	1,422½	386	191½	44½	5,289½	72.2	41½	574½	874	4½	.....	2	26	7,398	167,509	.....	.....	.....	492½	2½
April, 1866.	828	2,355½	542	372	18½	6,403	83.7	15	1,050	4,095½	14	.....	1	39½	3,104	186,249	.....	.....	.....	1,640	1,690
May, 1866.	.....	4,626½	.....	8	23	13,022½	8.12	119½	1,395½	6,973½	2½	.....	3	10½	.....	93,760	.....	.....	.....	.....	.....
June, 1866.	.....	9,607½	543	.....	.....	3,122½	.3	.....	3,504	1,055½	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
July, 1866.	.....	9,334	.....	158½	.....	1,763½	7.2	10	290½	3,328½	2½	.....	.....	.....	.....	163,048	.....	.....	.....	.....	.....
August, 1866.	.....	612½	152½	10½	.....	1,308	4.3	19½	222½	3,527½	.....	.....	1	9½	.....	166,638	.....	.....	.....	.....	947
September, 1866.	.....	410	30½	764½	2	2,150½	5.3	4	168½	3,364	.....	.....	1	8½	.....	151,261½	.....	.....	.....	.....	.....
October, 1866.	.....	733½	110½	.....	1½	1,464½	3.11	21½	163½	3,910	.....	3	.....	9½	.....	141,253½	.....	.....	.....	.....	.....
November, 1866.	.....	831½	36½	8½	.....	1,485	1	37½	151	3,424½	.....	.....	2	.....	.....	151,398	.....	.....	6½	.....	.....
December, 1866.	.....	1,696½	188	203½	.....	3,322	.....	22	399	3,972½	.....	.16	.....	.....	.....	125,066	.....	.....	.....	.....	.....
January, 1867.	.....	674½	114½	381	.....	4,291½	2.5	24½	97½	3,426½	.....	.8	.....	2½	.....	87,020½	.....	.....	.....	.....	.....
February, 1867.	.....	135½	1,224½	232	1½	3,086½	1.8	22½	87	3,320	.....	6.24	.....	.....	.....	58,343	.....	.....	.....	.....	.....
March, 1867.	.....	579½	2,035	29½	2½	3,285½	1.1	21	82½	3,211½	.....	2	.....	.....	.....	6,914	.....	.....	.....	.....	.....
April, 1867.	25	970½	798	963½	5½	3,736½	2.22	29½	109	23,579½	3	.....	1	11	.....	.....	.....	.....	.....	.....	.....
May, 1867.	.....	1,959	1,490½	122½	2½	6,866½	.8	36½	157½	4,502	.....	14	.....	.....	.....	176,754	.....	.....	.....	.....	.....
June, 1867.	35	1,005	1,016½	123½	.....	5,138½	3.12	8½	264½	1,688½	.....	.....	1.16	.....	.....	213,306	.....	.....	.....	.....	.....
July, 1867.	.....	1,17½	1,362½	147½	3½	2,240½	4.24	7½	179½	3,844	5½	86.12	.....	.....	.....	49,490	.....	.....	.....	.....	.....
August, 1867.	.....	153½	318½	87	3½	1,237½	2.24	4½	125½	3,866½	2½	15	.....	.....	.....	132,274	.....	.....	.....	.....	.....
September, 1867.	4	1,622½	5,261½	181½	1½	14,242½	1.16	12	125½	8,474½	.....	296	.....	.....	.....	29,054	.....	.....	.....	.....	.....
October, 1867.	6	6,562½	586	202	.....	17,844½	7.1	17½	95	9,116	2½	.....	.....	.....	.....	56,000	.....	.....	.....	.....	.....
Total.....	991	31,114	16,942½	4,270½	180½	107,176	343.31	536½	7,194½	107,014½	47½	424.4	23.16	143½	24,857	2,352,818½	3	1,015	68½	2,132½	2,639½



## SUSTINENCE STORES ISSUED TO INDIANS.

Statement showing the quantity and money value of subsistence stores issued to Indians, &amp;c.—Continued.

Month.	Codfish, pounds.	Grain, corn, wheat, and oats, pounds.	Green tea, pounds.	Spruce candles, pounds.	Dried beef, pounds.	Purchases for hospital.	Pumpkins, pounds.	White sugar, pounds.	Tobacco, pounds.	Sides, pounds.	Flour, pounds.	Jerked beef, pounds.	Godsacker, pounds.	R. and G. rye, pounds.	Money value.	Remarks.
January, 1866																Bill rendered to include from January, 1866, to May, 1866,
February, 1866																and a part of June, 1866. On the 3d day of October, 1866,
March, 1866	90	5,455	2													the remaining part of June was included in bill rendered
April, 1866		92,336														January 11, 1867.
May, 1866		7,452	1	14												Bill rendered January 11, 1867.
June, 1866					250	658 75										Do.
July, 1866																Bill rendered January 11, February 11, and March 16, 1867.
August, 1866					255	41 00										Do.
September, 1866																Do.
October, 1866																Bill rendered January 11, and April 10, 1867.
November, 1866																Bill rendered Jan. 11, Feb. 11, April 10, and Aug. 6, 1867.
December, 1866						27 03	98,122	82								Bill rendered
January, 1867						5 50										Bill rendered
February, 1867						19 50										Bill rendered
March, 1867									35							Bill rendered
April, 1867						81 30										Bill rendered
May, 1867						39 80			25	1,915						Bill rendered
June, 1867						11 79			50							Bill rendered
July, 1867						17 40										Bill rendered
August, 1867						17 40			90		178	1531				Bill rendered
September, 1867						19 50			3,991			209 65				Bill rendered
October, 1867						38 40			3,064							Bill rendered
Total.	90	35,243	3	154	505	305 36	98,122	82	5,185 1,315	1,915	178	309 65	1,047	1,363,964 02		Bill rendered January 8, 1868.

Deduct \$90,102 90, money value of stores issued to Indians according to section 3, act of Congress approved July 30, 1867, for establishing peace with certain hostile Indian tribes, to be charged against special appropriation for that purpose. War Department notified of this amount January 30, 1868. Total indebtedness of the Interior to the War Department \$1,363,991 10.

A. B. EATON, *Commissary General of Subsistence.*

OFFICE COMMISSARY GENERAL OF SUSTINENCE, January 31, 1868.

## LETTER

FROM

## THE SECRETARY OF THE TREASURY,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 12th instant, copies of communications from the Commissioner of Internal Revenue relative to the appointment or removal of assessors and collectors.*

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FEBRUARY 14, 1868.—Read, referred to the Committee on Finance, and ordered to be printed.

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TREASURY DEPARTMENT,

February 14, 1868.

SIR: I have received Senate resolution of the 12th instant, instructing the Secretary of the Treasury "to furnish forthwith, for the use of the Senate, copies of all communications to him from the Commissioner of Internal Revenue relative to the removal or appointment of assessors or collectors since the first day of June, 1867," &c.; and in compliance therewith I transmit a tabular statement showing the names of assessors and collectors recommended by the Commissioner for removal, and the action taken thereon, together with copies of all his communications bearing upon the subject.

From this statement, and the accompanying papers, it appears that twenty-seven (27) removals or suspensions of collectors and assessors have been recommended by the Commissioner of Internal Revenue; that of this number, one has resigned: that the recommendation for the removal of one has been withdrawn by the Commissioner, and that five were suspended by the President; and that a report of each case, with the testimony, was made to the Senate near the commencement of the present session. On these cases of suspension it is understood that no definite action has been taken by the Senate.

It further appears that for six of the offices in which changes have been recommended by the Commissioner, nominations have been made by the President, of which one has been confirmed by the Senate and one has been withdrawn by the President. On the other nominations the Secretary has not been officially advised of any definite action by the Senate.

The recommendations of the Commissioner in regard to fourteen of the offices are still under advisement, and proper means are being used to ascertain whether or not the incumbents ought to be removed, and whether removals, if considered advisable, are likely to be effected by the confirmation by the Senate of such nominations as may be made by the President. It must be obvious to the Senate that the failure of an effort to effect the removal of an inefficient or dishonest officer would prejudice rather than benefit the service, and that, therefore, it is not only necessary that the character of officers should be subjected to proper scrutiny, but that the practicability of changes should receive careful consideration.

## 2 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

It will be perceived by the accompanying papers that in all cases in which, during the recess of the Senate, suspensions have been recommended by the Commissioner on charges and evidence of "misconduct in office, or crime, or for any reason" rendering the persons "incapable or legally disqualified" to perform the duties of the office, the recommendations have been complied with by the President; and it may be proper for me to remark that all recommendations for removals during the session of the Senate have received prompt and proper attention by the Executive.

It is apparent from the statement herewith presented, as well as from other facts within the knowledge of the Senate, that very much of the difficulty in the way of the removal of dishonest or incompetent collectors and assessors arises from the restraint upon Executive authority imposed by the "civil tenure bill" in the recess of the Senate, and the want of accord between the Executive and the Senate in regard to nominations during the sessions.

I am, very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. B. F. WADE,  
*President of the Senate.*

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### *Schedule of contents of communications of Commissioner of Internal Revenue, addressed to the Secretary of the Treasury.*

1. In regard to the appointment of a suitable person to fill the vacant assessorship of the first district of Ohio. Dated June 17, 1867.
2. In regard to the administration of the revenue law, stating existing vacancies, and recommending that they be filled; also recommending removal of certain incumbents. Dated July 15, 1867.
3. In regard to the administration of the revenue law, and recommending changes in certain districts. Dated December 30, 1867.
4. Recommends removals of certain incumbents. Dated January 15, 1868.
5. Recommends the removal of Benjamin H. Sheppard, collector of internal revenue for the third district of Mississippi. Dated February 3, 1868.
6. Withdraws his recommendation for the removal of William H. McCartney, collector third district of Massachusetts. Dated February 12, 1868.

Also transmitted a letter of the Secretary of the Treasury forwarding additional evidence in the cases of Collector John H. Anderson and Assessor John H. Patteson, fourth district of Virginia, suspended for misconduct in office.

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TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, June 17, 1867.*

SIR: Several vacancies exist in internal revenue offices to be filled by presidential appointment. Of these the most important, perhaps, is that of assessor of the first collection district of Ohio, comprising a portion of the city of Cincinnati, and created by the death of Mr. Langdon. I desire to write briefly of Mr. Langdon's successor, and generally of appointments to important positions in the revenue service, and lest I should be misunderstood in what I shall write, or any motives be suspected, I will state that ever since its organization I have been, as I am now, a member of the republican party; casting my ballots, as you know, for its nominees, and approving of many of the acts of Congress that did not meet the approval of the President. I have not used my office, however, as you also know, to thwart the will of the Executive, but have endeavored rather, in the discharge of my official duties and as a subordinate officer, to execute his expressed pleasure.

The receipts of internal revenue in great degree depend upon the administration of the laws by the local officers. The laws themselves, and their construction, with rules, regulations, and instructions under them, are of little profit if assessors and collectors lack either integrity or ability. A tarnished reputation even is a hindrance to success, and as much disqualifies a man for either of these positions as for the pulpit or the bench. He, too, should only receive appointment who has won the confidence of his community by fidelity in other places of trust, and who will give character to the office, rather than he who seeks prominence and importance through official position, and whose principal claim is political service.

Unworthy men of little ability may possibly answer for other positions on the civil list where there is less opportunity for fraudulent collusion without detection, and where incompetency will not prove such a terrible cost to the treasury; but unless great care is exercised in the appointments of which I am speaking, the administration of the revenue laws will be a reproach, and the laws themselves will soon become insufferable to the public, regardless of party.

Faithful revenue officers, too, become more valuable as they have more experience. As their acquaintance with the law and the precedents of the office, and with the tax-payers of the several districts, becomes more intimate and more thorough, violations of the law are more easily prevented or detected, and the receipts of the treasury are multiplied.

It is because of this that the many and oftentimes repeated changes during the past year have prejudiced the revenue to the extent of many millions of dollars. I speak of this, and in this connection, with a hope that those may be appointed to place of the character I have indicated—men who have such moral and business qualifications, without noisy partisanship, that the Senate cannot do otherwise than confirm them.

I neither ask nor expect the preferment of men merely because they are republicans. I ask nothing at all, nor do I claim anything, from personal or political considerations, for I would, if possible, take the service altogether out of party politics. I do not ask you even to hear me for the appointment of any particular man, although I believe that the practice which long prevailed under which nominations were made by this office to yours can alone secure thorough discipline and efficiency; but as Commissioner of Internal Revenue, charged with important public trusts, and solicitous for the success of the Treasury Department, I do pray you that in Ohio and elsewhere, wherever vacancies exist, or shall hereafter occur, they shall be filled by those whose past lives and present reputations shall entitle them to the unmeasured confidence of the department and the public.

In Cincinnati, Representative Eggleston urges Mr. Davis, but Davis is a republican, and, from what I understand to be the expressed purpose of the President in such cases, I cannot expect his appointment. But those who are not republicans, and who do come within what I have described as the absolute necessities of the service, are Mr. James F. Torrence and Mr. P. W. Strader. I am not personally acquainted with either of these gentlemen, nor with any who recommend them, but you assure me that several gentlemen, who are not politicians, and in whose integrity and judgment you have full confidence, indorse them as friends of the President politically, and of such eminent fitness for the place in question that their confirmation is not uncertain.

I shall be satisfied with either of them, or with any one of like capacity and character. I cannot be satisfied with any one less worthy, for his appointment would not be consistent with the public good and the requirements of the service.

I am, sir, very respectfully, your obedient servant,

E. A. ROLLINS, *Commissioner.*

Hon. HUGH McCULLOCH,

*Secretary of the Treasury, Washington, D. C.*

#### 4 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, July 15, 1867.*

MR. SECRETARY: Several vacancies in the offices of assessors and collectors of internal revenue existed at the adjournment of the Senate in April last, and cannot be filled in its absence. They are as follows:

Assessor, first district, New York; assessor, tenth district, Pennsylvania; assessor, twelfth district, Pennsylvania; assessor, fifteenth district, Pennsylvania; assessor, second district, Indiana; assessor, ninth district, Illinois; assessor, fourth district, Wisconsin; collector, fifth district, Missouri.

The duties of these positions are now temporarily discharged by persons not generally regarded as fitted for permanent appointment, and I believe that the best interests of the service require that the vacancies should be filled immediately.

Frequent changes of officers I have always regarded as inconsistent with the successful administration of the revenue laws, and because of this, I have deeply regretted the many changes of the last two months, and cannot but hope that with the vexed political questions measurably concluded, removals and appointments may be substantially returned by the President to the Treasury Department, where alone they can be considered in connection with the good of the revenue. For the revenue, however, some changes should now be made, and because of the tenure of office act, they should be made while the Senate is in session. I recommend that successors be appointed to—

Assessor Homer Franklin, ninth New York; Assessor Abram Hyatt, tenth New York; Assessor Henry A. Weaver, twenty-second Pennsylvania; Assessor M. P. Gaddis, second Ohio; Collector E. T. Cunningham, seventh Illinois; Collector William James, third Virginia; Collector Francis W. Kellogg, first Alabama.

The reasons for this recommendation are already familiar to you. I shall deem it my duty to suggest additional ones, including some of the new appointees.

I am, sir, very respectfully, your obedient servant,

E. A. ROLLINS,  
*Commissioner.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury, Washington, D. C.*

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TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, December 30 1867.*

SIR: I beg to call your earnest attention again to the subject of frauds upon the revenue.

In the collection of the tax on distilled spirits these frauds have become so monstrous as to excite serious alarm, and unless they can be suppressed or materially checked will still further reduce the revenue and bring disgrace upon this office and upon the Treasury Department. I know of no way to suppress or check them otherwise than by insisting upon increased fidelity and vigilance on the part of all who are intrusted with the execution of the law, especially on the part of the assessors and collectors in the several districts where the frauds are perpetrated, as through them alone can their subordinate officers practically be reached.

I stated in a letter from this office, addressed to collectors of internal revenue and bearing date the 13th of May last:

"I am instructed by the Secretary of the Treasury to say that in any district in which these frauds continue, he will consider it his duty to see that such

changes are made in the officers of the district as may give promise of greater energy and fidelity."

These instructions were based upon the idea that assessors and collectors should be held responsible for the suppression of frauds in their several districts, and that the failure to suppress or check them should be considered as evidence either of the incompetency of the officers or of their complicity with the parties engaged in frauds.

In many districts, as I have frequently stated to you before, and as you are aware, the officers are incompetent or unfaithful, and in others they are corrupt.

For a time I hoped that good results might follow from the appointment of special agents and inspectors, but there is reason to fear that many of these have yielded to temptation, and as their number has been multiplied, frauds seem to have increased.

An efficient remedy is imperatively demanded. No legislation, however stringent, can avail without honest and capable officers, and I see no reason to change the views I have so often expressed to you that inefficient or dishonest officers must be removed and men of integrity and superior ability appointed in their places.

I therefore respectfully refer you again to my communication of the 15th of July last, in which I recommended the retirement of the several officers therein named. I have seen no reason to change that recommendation, and now earnestly renew it; and in addition to the changes then proposed, I earnestly recommend that successors be appointed to—

Collector James B. Steedman, first Louisiana; Collector John M. Cashman, third Missouri; Collector Orvin L. Mann, first Illinois; Collector William H. McCartney, third Massachusetts; Collector Thomas O'Callaghan, ninth New York; Collector Samuel M. Zulick, third Pennsylvania; Collector Charles Abel, first Pennsylvania; Collector William O. Collins, sixth Ohio; Assessor Alexander H. Hall, first Mississippi; Assessor William S. King, third Massachusetts.

The Secretary, the President, and the country, under a proper organization of my office, would have a right to hold me, as Commissioner of Internal Revenue, responsible for the faithful execution of the revenue laws. The efficient discharge of this duty on my part is absolutely impossible if subordinate officers, through whom alone laws can be enforced and the tax collected, fail from any cause whatever to enforce the laws and collect the tax.

I therefore feel it my duty to again call your attention to this important subject, that you may know why these frauds are continued, and to urge upon you the immediate application of the only remedy within my knowledge for their correction, namely, the retirement of officers found to be inefficient or unfaithful, and the substitution of efficient and faithful men in their places.

Other changes should be made and will be formally submitted whenever the recommendations here made and those already before you shall have been acted upon.

The best interests of the revenue require me also to call your attention to the several vacancies in the office of assessor referred to in my letter of July last, which still remain unfilled.

I am, very respectfully, your obedient servant,

E. A. ROLLINS,  
*Commissioner.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*



## 6 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, January 15, 1868.*

SIR: I respectfully recommend that successors be appointed to Thomas Wellwood, assessor, third district, New York; Peter M. Pearson, assessor, District of Columbia; Lewis Peck, assessor, twenty-fifth district, New York; David T. Littler, collector, eighth district, Illinois; James T. Abernathy, collector, second district, Tennessee.

The reasons for this recommendation are, in general, the same as stated in previous recommendations of this character.

Assistant assessors, inspectors of revenue, storekeepers of bonded warehouses, inspectors of distilled spirits, of coal oil, and tobacco, are appointed by the Secretary of the Treasury, but, as a rule, are appointed alone upon the recommendation of the principal revenue officers of the several districts where they are to be employed.

Were it not, therefore, almost self-evident, every day's experience would more and more assure me that the service can be recovered from dishonor, and the laws vigorously enforced only where the assessors and collectors are held personally responsible for all failures of their subordinate officers.

I trust that I may be encouraged to send the names of officers who should be retired in favor of men of superior ability and integrity.

Very respectfully, your obedient servant,

E. A. ROLLINS, *Commissioner.*

Hon. HUGH McCULLOCH,

*Secretary of the Treasury.*

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TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, February 3, 1868.*

SIR: I would respectfully request the removal of Benjamin H. Sheppard from the office of collector of internal revenue for the third district of Mississippi, for the reasons, as established by his own letter of the 27th December, last, and the affidavits, herewith transmitted, that he gave aid, countenance, and encouragement to persons engaged in armed hostility to the United States, and also yielded voluntary support to a pretended government, authority, power, and constitution, within the United States, hostile and inimical thereto.

*First.* In accepting and exercising the functions of provost marshal for General Bragg, in the so-called confederate service, in March, April, and May, 1862, at Okalona, in Mississippi.

*Second.* That in August, 1864, when all the men under fifty years of age in Mississippi, were called out by proclamation of the rebel governor to "repel invasion," meaning by "invasion" the approach of the United States forces engaged in repressing the rebellion and restoring the authority of the United States, he, the said Sheppard, (stating now in his letter referred to that he "could not shirk" the call,) joined the body of these insurgents which assembled at Okalona, and acted as their quartermaster for thirty days, the whole term of service. To use his own words: "I consented to act, at the request of the officer in command, in superintending the issue of rations and forage to the animals, biped and quadruped, collected here for the said thirty days."

*Third.* That during the late rebellion said Sheppard piloted from Okalona to Tupelo a part of the insurgent forces of the so-called confederate General Roddy, which came to take part in a battle between the rebels and the forces of the United States.

The first two specifications are proved by the aforesaid letter of Collector Sheppard, and the last one by the affidavit of C. M. B. Davis.



**APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS. 7**

It is obvious from these facts, even from such of them as are admitted, that the oath of office, under the act of July 2, 1862, should not have been taken by Collector Sheppard, as it was manifestly contrary to the facts in his case.

I have the honor to be, very respectfully yours,

E. A. ROLLINS, *Commissioner.*

Hon. HUGH McCULLOCH,

*Secretary of the Treasury.*

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**THE STATE OF MISSISSIPPI, Tishemingo County, ss:**

Personally appeared before me, H. Mask, mayor of the city of Corinth, and *ex-officio* justice of the peace for Tishemingo county, Mississippi, J. M. Jones, who, under oath deposes and saith, that he is acquainted with J. E. Small, deputy collector for the United States internal revenue, and knows that the said Small was mail agent for Corinth and afterwards joined the rebel service, and was stationed at Pensacola, Florida; that the said Small was intemperate in his denunciation of Union men south by writing and speaking. And he further states that from information he considers reliable, that the collector and assessor for the 3d United States internal revenue district of Mississippi were rebels; the collector having actually engaged in and fought battles in the State of Virginia, while the assessor was a surgeon in the rebel service in Mississippi, in the conscript office as examining physician. The said Jones further states that he heard the foreman of the grand jury for the northern district of Mississippi assert that B. H. Sheppard was indicted, and a true bill found by said grand jury, and that James E. Stewart, United States district attorney, after signing said true bill, did pocket the same and prevent the said Sheppard from prosecution for malfeasance in office. Further than which, deponent saith not.

J. M. JONES,

*Late First Lieut. Mich. Inf., Registrar for Tippah Co., Miss.*

Sworn to and subscribed to before me this the 18th day of November, 1867.

H. MASK,

*Mayor of Corinth.*

P. S.—The corrections above are with my knowledge and consent.

J. M. JONES.

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**CORINTH, TISHEMINGO COUNTY, MISSISSIPPI,**

*November 20, 1867.*

*To whom it may concern:*

I hereby certify that during the late war between the so-called Confederate States and the United States, one B. H. Sheppard, now holding the position of collector of internal revenue in the third district of Mississippi, did for a time hold and exercise the duties of provost marshal in and for the so-called confederate government, at the city of Okalona, Mississippi; and I understand him to also, at one time, hold the position of major and assistant quartermaster for the State militia, subservient to the so-called confederate government.

Given under my hand this the 20th day of November, A. D. 1867.

[SEAL.]

PHILIP HENSAN.

Sworn to and subscribed before me this the 20th day of November, A. D. 1867.

H. MASK, Sr.,

*Mayor of Corinth and Ex-officio Justice of the Peace.*

## 8 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

Personally appeared before me, H. Mask, mayor of Corinth and ex-officio justice of the peace, this the 20th day of November, A. D. 1867, the undersigned affiant, C. M. B. Davis, who being duly sworn, witnesses and deposes as follows: That during the late war between the United States and the so-called Confederate States, one B. H. Sheppard, now collector of internal revenue for third district of Mississippi, did pilot from Okalona to Tupelo a part of the command of the confederate General Roddy, and that said command came there for the purpose of taking part in a battle between the forces of the United States and the so-called confederacy.

C. M. B. DAVIS.

Sworn to and subscribed before me this 20th day of November, A. D. 1867.  
[SEAL.] H. MASK,

*Mayor of Corinth and Ex-officio Justice of the Peace.*

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### THE STATE OF MISSISSIPPI:

To all to whom these presents come greeting: Whereas it appears by the returns received at the office of the secretary of state that H. Mask is duly and constitutionally elected to the office of justice of the peace for Beat, No.—, in Tishemingo county, and ex-officio mayor of the city of Corinth, in said county, now know ye that in consequence thereof, and by virtue of the constitution and laws of this State, we do authorize and empower him to execute and fulfil the duties of that office according to law, and to have and to hold said office with all the powers, privileges, and emoluments, to the same of right appertaining, from the first Monday in January, 1866, for the term prescribed by law.

In testimony whereof, I, Benjamin G. Humphreys, governor of the State aforesaid, have caused these letters to be made patent, and the great seal of the State to be hereunto affixed.

Given under my hand at the city of Jackson, this fifteenth day of November, in the year of our Lord one thousand and eight hundred and sixty-six, and of the sovereignty of the State of Mississippi the forty-eighth.

BENJAMIN G. HUMPHREYS.

[SEAL.]

C. A. BROUGHER, Esq.,

*Secretary of State.*

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### OFFICE OF SECRETARY OF STATE, *Jackson, Mississippi.*

I, C. A. Brougher, secretary of state, do certify that the within commission is a correct copy of a commission issued to H. Mask, mayor of the city of Corinth, and ex-officio a justice of the peace of Tishemingo county; that the term thereof expires on the first Monday in January, 1869; and I further certify that all justices of the peace in the State of Mississippi are ex-officio notaries public, by virtue of the provisions of act 34, section VIII, chapter LVIII, of the revised code of Mississippi in 1857, which is in the words and figures following, to wit:

ART. 34. All justices of the peace and clerks of the circuit and probate courts in this State are and shall be notaries public by virtue of their office, and shall possess all the powers and discharge all the duties belonging to the office of notary public, and may authenticate all their acts, instruments, attestations, by their common seal of office, and all acts done by them of a notarial character shall receive the same credit and legal effect as are attached to the acts of notaries public within the United States.

APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS. 9

Given under my hand and the great seal of the State of Mississippi, affixed this twenty-seventh day of November, A. D. 1867.

[SEAL.]

C. H. BROUGHER,  
*Secretary of State.*

A true copy :

A. W. WILLS,  
*Brevet Colonel, Assistant Quartermaster.*

DECEMBER 27, 1867.

SIR: Yours of the 11th instant, calling for information as to whether I had ever acted as provost marshal, quartermaster, &c., during the late rebellion, was received last Sunday week, and would have been answered before now, but for the fact that I have been confined ever since to a bed of sickness. In reply, I have respectfully to submit that I was opposed to secession and opposed to the war, and never proposed to take any part in the strife.

In 1862, when General Bragg occupied Corinth with his forces, he established a large hospital at this place, in his rear, and put the surrounding country under martial law. On or about the 27th of March he sent a written request to me that I would act as provost marshal here. I immediately got on the train and went to Corinth, seventy miles distant, sought a personal interview with the general at his headquarters, in which I begged to be excused from the service to which he assigned me, stating my political antecedents, stating the fact that I was no military man, knew nothing of military affairs, and wished to have nothing to do with them.

General Bragg replied that he had assigned me to this duty, although a private citizen, because he could not spare officers from his command for such detached service. As the office was rather a civil than a military one, that I would be required to take no oath, and probably get no pay, he hoped for the good of the community, the peace and order of society, that I would consent to act. I therefore returned home and did the best I could. I acted as provost marshal here about sixty days; not, however, as a military officer, but rather as a magistrate or police officer. As before indicated, I took no oath, got no pay, and very little thanks.

As to the second allegation, the facts are these: In August, 1864, the governor of Mississippi, by proclamation, called out every man in the State under fifty years of age to serve for thirty days—not to take the field, but to rendezvous at certain points, and, if necessary, to repel invasion. I came within this call, and could not shirk it; and as this happened to be one of the places of rendezvous, I consented to act, at the request of the officer in command, in superintending the issue of rations and forage to the animals, biped and quadruped, collected here for the said thirty days.

I never was a major or any other commissioned officer in any service except that of the United States navy and United States army.

The foregoing facts were made known to Deputy Commissioner Whitman before I received my commission at his hands.

Very respectfully,

B. H. SHEPPARD, *Collector.*

Hon. E. A. ROLLINS,  
*Commissioner of Internal Revenue.*

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, February 12, 1868.*

SIR: In my letter of December 30, relating to the retirement of several revenue officers, I gave the name of Collector McCartney, of the third district of Massachusetts, to whom I believed a successor should be appointed. I was con-

## 10 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

strained to make this recommendation with reference to Collector McCartney in great measure because of the so-called alcohol-water frauds in his district which were perpetrated in April last, and by reason of which I believed great loss would occur to the revenue. The collector, it seemed to me, at that time was guilty of neglect of duty, and has subsequently been dilatory in securing the government from loss.

It is now claimed by him that the result of the proceedings, civil and criminal, which have been instituted, will vindicate himself, and prevent all loss to the government; that he has evidence in his possession which will enable the United States district attorney to secure verdicts in these proceedings, while the district attorney informs me the trials will be had next month.

Under these circumstances it seems to me but just to the collector and his sureties, and for the interests of the government in the suits in question, that you should postpone any action with reference to him, based upon my letter above referred to, until the action of the court shall be had in March, and I respectfully recommend such postponement, not beyond, however, the close of the March term of court.

I am, very respectfully,

E. A. ROLLINS, *Commissioner, &c.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

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TREASURY DEPARTMENT, *January 18, 1868.*

SIR: I transmit herewith a letter from the Commissioner of Internal Revenue enclosing additional testimony in the cases of John H. Anderson, collector, and John H. Patteson, assessor fourth district of Virginia, and have to inform the committee that I am still of the opinion expressed in my former communications, (copies of which are in your possession,) viz., that the interests of the public service demand the removal and the prompt action of the Senate upon the cases of these officers, who were suspended by the President for the reasons stated in the official communication referred to; which is deemed by the Commissioner and myself as essential to the proper conduct of the business in that district.

I am, very respectfully,

H. McCULLOCH, *Secretary of the Treasury.*

Hon. P. G. VAN WINKLE,  
*United States Senate.*

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TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,  
*Washington, January 18, 1868.*

SIR: I have the honor to submit to you herewith a further report of Special Agent Joseph D. Weed, of this date, with additional testimony and enclosures, in the matter of charges against Collector John H. Anderson and Assessor John H. Patteson, of the fourth district of Virginia; and also a letter from Acting Collector William E. Wells, of the same district, transmitting letter and enclosures from E. B. Branch, his deputy and chief clerk, relative to embarrassment in the discharge of his duty occasioned by discovering payments of several small amounts of taxes, some of which it is alleged were made subsequent to the assessments sought to be collected.

I would respectfully request that these documents be transmitted to the Senate for its consideration.

I have the honor to be, very respectfully, yours,

THOMAS HARLAND,  
*Deputy Commissioner.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

WASHINGTON, D. C., *January 18, 1868.*

SIR: I have to submit herewith a report of such facts as it may be proper to offer in rebuttal of evidence submitted by the defence, together with certain additional evidence, in the cases of the late collector and assessor of the fourth district of Virginia, Messrs. Anderson and Patteson.

First, with regard to the main point made by them, that they are the victims of a conspiracy, &c. This subject was fully discussed at the interview had with yourself and Secretary McCulloch by Special Agent Presbrey and myself, as to the policy of allowing Messrs. Clarkson and Parrish to be accepted as evidence for the United States. So far from their industry in hunting up evidence against these parties being evidence of a conspiracy on their part, I am inclined to view it only as an evidence of good faith on their part in performing what devolved upon them upon being accepted as government witnesses. I have no fault to find with either of the parties on that score, as all my questions have been promptly answered, and although I have endeavored, by all the usual means of cross-examination, &c., to make the best possible test of their veracity in, and accuracy of, their statements, they have thus far maintained the same statements without any material variation. I am now prepared to confirm the majority of the statements of Mr. Parrish by the books of account kept by Mr. Averitt, his clerk, in which are entered the several payments to Anderson and Patterson; also, as to the general tenor of his evidence, by that of A. Clendennin, Averett, and one or two other witnesses the particulars of whose testimony I have been as yet unable to inquire into.

The testimony of Mr. Parrott is of a nature which renders corroboration by another witness nearly impossible. Strong circumstantial evidence will be produced to confirm his original statement, but, in my judgment, an exposing of the names of the witnesses relied on, at the present time, would have an injurious effect should the parties be brought to trial upon the criminal charge. Should you deem it necessary, I will furnish them. A cross-examination of Mr. Parrott will show under what circumstances the last affidavit (?) was obtained from him by Messrs. Anderson and Patteson. He is now very much frightened, as he has been informed that he testified to facts which render him liable to criminal prosecution, and says he don't wish to tell any more, nor will he if he can avoid it. I am prepared to show, in such court as I may be enabled to compel answers from witnesses, that he did carry the money, and with it a statement showing what it was for, and that the contents of said statements were known to him.

I have not examined as to the question of obtaining further evidence to sustain the affidavit of Brockenbrough as to payment to storekeeper and inspector. Evidence of Brockenbrough's good character and reliability for truth and veracity has been presented to me, signed by the president of the bank at Scotsville, Virginia, (where he resides,) the clerk of the court of the county, and some thirty (30) other gentlemen, who testify that they have known him from boyhood, and that he has borne a good character.

The affidavit of James T. Jones I shall be able to substantiate by the testimony of several witnesses. Special Agent Presbrey will be able to substantiate a portion of it by facts within his own knowledge.

The affidavits of Willis M. Parrish, William H. Carlin, and Eli Gray, will be substantiated by the evidence of Nathaniel Simms, John Harvey, Thomas James, and — Taylor, who were employed in removing the spirits in question, and by reference to the books of the collector and assessor, which show that no permits were granted, or taxes paid, upon three-fourths of the quantity which the witnesses testify to have aided in removing.

In rebuttal of the testimony introduced by the parties, on examination I find a portion of the papers (affidavits numbers 1-17) which were filed in the Secre-



## 12 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

tary's office have been withdrawn by the parties, and I am at loss to know whether they are in the hands of Senator Van Winkle or not; I am therefore obliged to rely on my own recollection of the names of the parties making them and of the gist of their contents. Among them were—one purporting to be signed by E. Helfrick; contents I do not remember. I am now informed by Mr. Helfrick that he has never given any affidavit relative to this case; that he is willing to come to Washington and testify that such is the fact, if necessary. One signed by E. Smidt (?) in regard to which Mr. Smidt (or Smith, I don't know how he spells his name) now states that it was obtained from him by false representations. I don't remember that any charge was made that the parties received money from Smidt, so have given the matter no further attention. One signed by William Denmead, of Baltimore. I am prepared to prove that the statements made in this affidavit are, to say the least, evasive, by several witnesses. I am prepared to prove Mr. Denmead's knowledge of the general arrangement made by Clarkson and Parrish with the parties in this case by his admissions and statements made to ———, and other persons whom I have not yet examined. (Note that the name in the above case is left blank for reasons verbally communicated.) One signed by R. F. Walker. I need give no further evidence of its character than the copy of a letter enclosed, (original shown.) I retain the original for use in the trial of the party on a criminal charge. I am personally well acquainted with Walker's handwriting; have seen him write at least a hundred times, and can testify that it, the original letter, is in his handwriting. The next affidavit I am called on to notice is of W. W. Gosden, in regard to whom I have only to say that his affidavit tells but a portion of the truth as to his knowledge of the frauds carried on. Mr. Gosden has been under indictment for using a counterfeit inspector's brand; and, fully agreeing with the gentlemen that he is a young man much respected in Richmond, I have only to say that I am assured by the young gentleman and his counsel that he is willing to tell now the whole truth in the matter, which differs materially from the affidavit submitted. I have only hesitated at taking his testimony heretofore from the reason that I desired to accept as few parties in his situation as witnesses for the United States as possible. I can see no material testimony contradicted by his affidavit, and therefore have not further considered the subject. The same remark applies to the affidavit of M. D. Hobson, also under indictment.

As to the affidavits of Elsom, Sheppard, McCrary, and some others whose names do not occur to me, I suggest that their affidavits are merely to be considered as a plea of not guilty, which is the right of every party under criminal charges to put in answer to a charge against him.

As to the suborning of the witness Hobson, that matter was investigated by the late grand jury (May term United States circuit court) and the charge dismissed.

As to the alleged statements of Dr. Clendinen, under oath, relative to the production and removal of distilled spirits. The statements referred to are the tri-monthly returns made by distillers in compliance with law. An investigation of the affairs of the Howlett distillery was made, and the deficiency being proved between the actual production and the amount returned by Dr. Clendennin, an attempt was made to indict him for rendering a false return, but the fact was elicited that the returns *were not sworn to*, and the indictment failed.

As to proof of the former good character of the parties, I have no wish or intention to discredit. Up to the commencement of this investigation I myself had the most implicit confidence in them, which was not shaken until the appearance of Mr. Anderson upon the stand as a witness on the trial of John Morris, a distiller in his district, some time about the first of August last, referred to in the former report of Special Agent Presbrey and myself, and hereinafter specifically referred to.

## APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS. 13

I have endeavored, but uselessly, to have these parties brought before the United States commissioner for judicial investigation. The affidavits are on file in his office, and he is ready to issue his warrant. The case has been officially reported to the district attorney. The commissioner informs me that he is ready to issue his warrant of arrest, but delays in order to have the district attorney attend in person. Relative to the latter's position in the case, I have only to repeat the statement I am authorized to make in the matter, "that he (Chandler) had not yet seen the papers, and when he saw them he would say what he would do." This statement was made to me on Monday evening last. I have called his attention to the case several times, but as yet have been unable to have him to examine the papers.

I enclose herewith additional testimony, as follows: Transcript of entries upon the cash book of W. H. Parrish, showing the amounts appearing on said book as paid to officer, both for taxes and illegal purposes. This transcript is duly verified by myself and Mr. Parrish.

Affidavit of W. B. Averett, the clerk by whom said entries were made, explaining said entries.

Affidavit of A. Clendinen, as to his knowledge of the corruption of Anderson and Patterson. I think, if anything, it is more conclusive than any other testimony yet furnished.

I had intended to include in this report the facts in relation to the connection of these parties with the Alcotts distillery fraud, but want of time forbids any detailed statement. I can only say that Lipscomb, the inspector, who is now under indictment for conspiring with Alcott and Morris, the distillers, has intimated that he is prepared to prove that he acted under the direct and explicit orders of Patterson and Anderson. A want of time, and an opportunity to consult with Dr. Presbrey, who is more familiar with the case than myself, may have made me omit some points, but I deem the case as now presented to you so clear a case of the worst sort of corruption, that it fully justifies the reports previously made to you.

I am, sir, very respectfully,

J. DEWEED,  
*Special Agent, Treasury Department.*

Hon. E. A. ROLLINS,  
*Commissioner of Internal Revenue.*

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TREASURY DEPARTMENT, *January 18, 1868.*

SIR: It becomes my duty, as the acting collector of internal revenue for the fourth district of Virginia, to transmit to you the accompanying letter and enclosures from E. B. Branch, esq., my principal deputy and chief clerk, relative to the embarrassments I am subjected to in performing my duty as an officer of your department.

I have not had sufficient time to investigate in any other county except Chesterfield, but shall do so at the earliest moment, and report the facts in order that I may be relieved from any responsibility in the matter.

I am, very respectfully,

WILLIAM P. WELLS,  
*Collector Fourth District of Virginia.*

Hon. E. A. ROLLINS,  
*Commissioner of Internal Revenue.*



14 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

COLLECTOR'S OFFICE,  
*Manchester, January 13, 1868.*

DEAR SIR: Mr. F. S. Anthony, who was appointed special deputy to collect arrearages of taxes in Chesterfield county, district No. 4, has reported in person, and seems discouraged for the reason that he finds quite a number who have paid their taxes and hold receipts, and some who allege they have paid also, and in some instances show receipts subsequent to the assessments which he wished to collect. In the cases where persons had receipts, he took duplicates of them, which are herewith enclosed, and in two instances he permitted parties to make affidavits that they had paid, executed in one instance before a justice of the peace, and in the other before the clerk of the court of Chesterfield county. He will report again in a day or two, and I will advise you.

Very respectfully, your obedient servant,

E. B. BRANCH.

Col. W. P. WELLS, *Washington, D. C.*

JANUARY 18, 1868.

A true copy :

WILLIAM P. WELLS,  
*Collector Fourth District of Virginia.*

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STATE OF VIRGINIA, *City of Petersburg, to wit:*

This day personally appeared before me, a justice of the peace of the city aforesaid, Julius Leibert, who made oath that he paid the tax and penalty assessed on eight thousand cigars in May, 1867, to F. W. Anderson, deputy collector, Chesterfield, amounting to \$43.

Given under my hand this day, December 31, 1867.

E. O. HINTON, *J. P.*

JANUARY 18, 1868.

A true copy :

WILLIAM P. WELLS,  
*Collector Fourth District of Virginia.*

---

VIRGINIA, *Chesterfield county court, Clerk's office:*

I, Nathan H. Cogbill, clerk of said court, do hereby certify that S. O. Duval personally appeared before me and made oath that he paid three dollars internal revenue tax on carriage and watch, assessed September, 1866.

Given under my hand this 30th December, 1867.

NATHANIEL H. COGBILL, *Clerk.*

JANUARY 18, 1868.

A true copy :

WM. P. WELLS,  
*Collector Fourth District of Virginia.*

---

NOVEMBER 11, 1867.

Received of John Manders \$13 34, special tax on fruit distillery; balance due, \$2.

F. W. ANDERSON,  
*Deputy Collector.*

A true copy :

F. S. ANTHONY.

JANUARY 18, 1868.

A true copy :

WM. P. WELLS,  
*Collector Fourth District of Virginia.*

# APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS. 15

OCTOBER 18, 1868.

Received of P. S. Hancock \$13 (thirteen) on annual list of internal revenue and penalty.

F. W. ANDERSON,  
Deputy Collector.

A true copy :

F. S. ANTHONY.

JANUARY 18, 1868.

A true copy :

WM. P. WELLS,  
Collector Fourth District of Virginia.

NOVEMBER 16, 1867.

Received of J. W. Walker twelve dollars and sixty cents, for internal revenue tax and penalty.

F. W. ANDERSON.

A true copy :

F. S. ANTHONY.

JANUARY 18, 1868.

A true copy :

WM. P. WELLS,  
Collector Fourth District of Virginia.

*Transcript of entries found on cash-book of William H. Parrish, of Richmond, Virginia.*

Pago.	Date.		Amount.
	1866.		
203	October 29	A. Clendinen, paid G., October 15 .....	\$100 00
		I., October 15 .....	125 00
		S., October 16 .....	100 00
203	.....do.....	John N. Clarkson, paid S. for Henningsen.....	100 00
231	Nov'ber 10	A. Clendennin, paid J. H. Anderson on account of tax .....	160 69
233	.....do.....	Dr. Ed. S. Dollsh, paid him.....	50 00
239	Nov'ber 15	Dr. J. E. Doetsh, paid Captain Buckholtz.....	35 00
243	Nov'ber 16	Rectified account, paid tax, brands, plates, &c., for Goldman,	10 26
245	Nov'ber 17	Colonel J. N. Clarkson, paid Mr. C .....	30 00
		Do.....do.....	50 00
247	.....do.....	Ticket against Crosby, merchandise.....	280 00
249	Nov'ber 19	Paid tax, J. H. Anderson.....	1,924 31
255	Nov'ber 23	Howlett's, paid expenses, No. 73.....	250 00
		No. 80.....	200 00
275	Dec'ber 3	Howlett's, paid expenses.....	150 00
303	Dec'ber 22	Howlett's distillery, paid expenses to S .....	200 00
		paid expenses .....	150 00
		paid expenses to G.....	300 00
303	Dec'ber 22	Howlett's, paid Lank \$10, and Crosby \$600 .....	610 00
311	Dec'ber 25	John N. Clarkson, paid out expenses No. 90 .....	250 00
		Paid Henry Smith, borrowed.....	100 00
		Paid Mr. Grey .....	50 00
313	Dec'ber 28	Howlett's, paid A. J. Goldman.....	80 00
		Paid J. H. Anderson balance tax.....	2 50
315	Dec'ber 30	J. Ed. Doetshe, paid him.....	15 00
	1867.		
323	January 7	Howlett's, paid J. H. Anderson tax .....	7,482 00
329	January 14	Howlett's, check No. 254, paid B.....	66 66
331	.....do.....	T. H. Averitt, paid No. 254, paid B.....	66 67
333	.....do.....	T. H. Averitt, paid check No. 265, tax.....	2,150 00
333	.....do.....	Expense account, paid B.....	5 00

# 16 APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS.

*Transcript of entries found on cash-book of Wm. H. Parrish, &c.—Continued*

Page.	Date.		Amount.
	1867.		
337	January 30	John N. Clarkson, for B. F. D., paid B.....	\$66 67
345	Feb'ry 2	Howlett's, paid check No. 22.....	193 90
		Balance deposited to W. H. P., credit on account of tax due Anderson, check No. 24.....	287 00
		A. J. Goldman, No. 46.....	135 00
347	.....	Howlett's distillery. Deposited check No. 11 on National Ex. Bank to W. H. Parrish, credit in part payment of tax....	1,713 00
347	....do.....	Roxdale, part of check No. 62, Manson.....	25 00
349	Feb'ry 18	Danville distillery, paid Buckholtz, order to Doetsh.....	180 00
349	Feb'ry 23	John N. Clarkson, paid part of check No. 62 for Manson's clothes, to be charged B. F. Denmead .....	25 00
351	....do.....	Howlett's, part of check No. 62, for Manson's clothes.....	25 00
357	March 5	Howlett's, paid A. & P. part of check No. 94 .....	1,617 00
359	March 6	John N. Clarkson, paid A. & P. part of check No. 94.....	966 33
361	....do.....	Howlett's, paid A. J. Gouldmas's salary, February 12 .....	130 00
363	March 19	Howlett's, paid Goldman's salary.....	175 00
365	March 21	Roxdale distillery, paid Richard Anderson's salary..... expenses to Captain E..... R. F. Walker's order to J. E. Grey.....	63 50 312 50 13 00
369	March 22	Roxdale, paid Anderson.....	100 00

Joseph D. Weed, being duly sworn, deposes and says that he is a special agent of the treasury, and in the performance of his official duty he has examined the book exhibited to him as the cash-book of William H. Parrish, of Richmond, Virginia, and that the foregoing entries are true and exact copies of certain entries made in said book, and that said transcript was made by him this 17th day of January, 1868.

J. D. WEED,  
*Special Agent of the Treasury.*

Sworn to and subscribed before me this 17th day of January, 1868.

JOHN C. COX, *Justice of the Peace.*

William H. Parrish, being duly sworn, deposes and says that he is a citizen of Richmond, Virginia, and during the time mentioned in the foregoing transcript was the agent of the Howlett, Roxdale, and Danville distilleries, and paid out money for them and the Roxdale distillery. That he has examined the foregoing transcript made from his cash-book, and that it is a true and correct copy of certain entries appearing thereon. That William B. Averett was, during the period referred to, his bookkeeper and confidential clerk, and made the original entries in said cash-book. That item No. —, page 359, charged to "J. N. Clarkson, paid A. & P. part of check No. 94, \$966 33," was paid by him (Parrish) for the Denmead distillery. That this sum, with the previous item, \$1,617, was handed by deponent to Inspector Elsom, to be handed to Anderson and Patterson, and is the sum of \$2,583 33, referred to in his previous affidavit and that of William Parrott, taken before United States Commissioner Chahoon, and heretofore forwarded to the Treasury Department.

WM. H. PARRISH.

Sworn and subscribed to before me this 17th day of January, 1868.

JOHN C. COX, *Justice of the Peace.*

William B. Averett, being duly sworn, deposes and says that he is a citizen of Lynchburg, in the State of Virginia; that from about the 8th of October,

1866, to about the 15th of April, 1867, he was employed by William H. Parrish, of the city of Richmond, commission merchant, and wholesale dealer in all kinds of liquors, as bookkeeper and confidential clerk, and that the book now exhibited to the officer before whom this is sworn to is the general cash-book used by Mr. Parrish, as merchant aforesaid, in which all cash transactions of which he has any knowledge were made; and that all entries between the dates specified were made by him from the several check-books on the different banks in Richmond with which the said Parrish kept accounts; and further says that the annexed transcript is a true copy of all moneys paid out to government officials whose several names are designated by initial letters "A.," "P.," "G.," "S.," "E.," &c., viz: On page 203, C. B. charged to A. Clendinen as paid "G.," October 15, \$100, was paid, he is satisfied to Mr. A. J. Gouldman, and so understood at the time he copied the entry. By "J." was meant John James; by "S.," October 16, Major Shaddock. Page 231, November 10, A. Clendinen paid J. H. Anderson on account tax \$160 69, he believed to be correct; on same date, paid J. E. Doetsch \$50, he knows nothing about what it was for. Page 243, paid for Gouldman's brand, &c., \$10 26. Page 245, M. C. paid Mr. C. \$80; he does not know who Mr. "C." is. Page 247, ticket against Crosby for \$280, he believes that a check for \$300 was given Mr. Crosby as an acceptance, dated ahead, and Mr. C. being in Richmond before the maturity of check, \$20 on account of the check was paid him, leaving the balance of \$280. Page 249, merchandise account, paid J. H. Anderson on account taxes \$1,924 31, he believes, for the purpose indicated. Page 255, November 23, Howletts paid expenses to various government officials. He will further say that when these vague entries, paid "expenses," &c., were made on the check-books he understood that as the common mode and asked no questions. Page 275, \$150, amounts paid officials. Page 303, December 22, 1866, paid "S." \$200, means Henry Smith; next entry paid "expenses;" next entry paid A. J. Gouldman \$300. Page 303, December 22, paid Lang, distiller, \$10; W. H. Crosby, \$600, (assistant assessor Chesterfield county, Virginia.) Page 311, money handed Colonel John N. Clarkson, check 90, \$250. Page 313, December 28, 1866, A. Clendinen paid A. J. Gouldman for "common" purposes. Page 329, January 7, 1867, paid J. H. Anderson, on account of taxes due, \$7,482. I know this was paid. January 14, 1867, paid "B." "common purposes," I suppose, amount, \$66 66. Page 333, paid on account of taxes for Danville distillery, \$2,150. Page, 345, February 2, 1867, Howlett's distillery, paid out \$193 90, "common purposes." Same page, balance deposited to W. H. Parrish's credit, on account of tax due J. H. Anderson. Page 345, February 2, 1867, paid A. J. Gouldman \$135, salary, he thinks. Page 347, February 15, 1867, check deposited in National Exchange Bank of Richmond, Virginia, to W. H. Parrish's credit, in part payment of tax. Amount of check, \$1,713. This amount was part of the \$7,482, paid Anderson, January 7, 1867. Page 347, Roxdale paid part of check for O. S. Manson's clothes, \$25. Page 340, February 18, 1867, Danville distillery paid Captain Buckholtz's order to J. E. Dotsh, \$180. February 23, 1867, John N. Clarkson paid part of check for O. S. Manson's clothes, \$25. Page 351, Howlett's distillery paid part of check for O. S. Manson's clothes, \$25. Page 357, March 5, 1867, Howlett's distillery paid "A." and "P." part of check 94, \$1,617. That I understood the initials "A." and "P.," at the time of copying the entry, to mean Anderson and Patterson, and so intended to designate them. The same remark applies to the next entry on page 359, amount \$966 33, charged to Colonel John N. Clarkson as paid to the above parties "A." and "P." Page 361, Howlett paid A. J. Gouldman's salary, February 12, 1867, \$130. Page 363, March 19, Howlett paid A. J. Gouldman's salary, \$175. Page 365, paid Richard Anderson's salary \$63 50; paid Captain Elsom, same page,

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entered Captain "E.," \$312 50 ; paid R. F. Walker's order to J. E. Grey, \$13.  
Page 369, Roxdale distillery paid Anderson \$100.

W. B. AVERETT.

Sworn and subscribed before me this 17th January, 1868.

JOHN C. COX, *J. P.*

Alexander Clendinen being duly sworn, deposes and says that he was the proprietor of the Howlett distillery during the time of an arrangement existing between himself and certain revenue officers of the district in which said distillery was situate, being the fourth district of Virginia ; that he never swore to any statement of the products and removal of spirits from the Howlett distillery, as no oath was administered by the assessor who received the returns, deponent having reminded the assessor that though it was his duty as assessor to administer said oath, that he (deponent) paid him (the assessor) not to do his duty. Deponent further swears that most of the returns made to the assessor of the product of said distillery were made by his agents, and not by himself in person, as will appear by reference to the returns ; and further that he never was sworn by the revenue officers at any time, except when becoming principal or surety upon revenue bonds. And deponent further swears that he never has seen, nor is he fully cognizant of the contents of the affidavits of William H. Parrish and others relative to the payment of moneys to officers in the said fourth and other districts of Virginia heretofore transmitted to the Secretary of the Treasury, but has a general knowledge of the payment of money to the different revenue officers for the purpose and effect of avoiding the payment of internal revenue tax upon whisky manufactured at his own and other distilleries in the fourth district of Virginia, in reference to which deponent swears that Andrew J. Gouldman, whisky inspector, internal revenue, came into office about the middle of July, 1866, and was assigned to the inspection of whisky at Howlett's distillery. The arrangement made with him was for five hundred dollars per month, which, it was understood, was to be divided between himself and John H. Anderson, collector for the fourth district. This arrangement was continued up to the 1st of December, 1866. In December, a contract with said John H. Anderson, at twelve thousand dollars, and with J. H. Patterson, assessor of said district, at ten thousand dollars per annum, to be apportioned pro rata between four distilleries, the storekeepers to be paid in addition twenty-five hundred dollars each per annum. This arrangement lasted up to about the 1st of March, 1867, when the law was changed, and a general inspector of spirits was appointed for all the distilleries, to wit, Robert W. Elsom, when Anderson and Patterson demanded that the compensation should be increased to fifty-two thousand dollars per annum, or one thousand dollars per week for all four of the distilleries, being two hundred and fifty dollars for each distillery per week. Mr. Elsom brought the demand, and on complaint to Anderson and Patterson by myself and others, we were referred to him (Elsom) as their agent. After considerable dispute, the amount was settled at thirty or thirty-two thousand dollars per annum, I am not positive which, to be paid pro rata by the four distilleries in semi-monthly payments, through Mr. Elsom. This was to cover the feeing of all officers except the storekeepers, whose pay was now decreased to two thousand dollars each per annum, which caused some dissatisfaction among the storekeepers, especially Mr. Gray, the storekeeper at Denmead's distillery, and a special protégé of R. F. Walker. Mr. Walker spoke of Anderson and Patterson in very hard terms for "thus robbing the poor boy." Anderson and Patterson said they thought that amount more than Gray ought to get, and they could fill his place with another man at fifteen hundred dollars per annum. The above stated negotiations and arrangements were had between Mr. Elsom as representing Anderson and Patterson on the one part, and myself, R. F. Walker, William H. Parrish and William Den-



mead on the other part, the latter becoming security for the payments to become due from the Denmead distillery, and myself for my own place, for which Mr. Parrish had previously generally paid, but Anderson and Patterson both told deponent that on several occasions Parrish disappointed them, and that they now wanted to look to deponent for the payments. R. F. Walker was very conspicuous in this and all previous negotiations and arrangements with Anderson, Patterson and Elsom. There existed at this time a disputed account for bonus money—Anderson and Patterson claiming five thousand dollars, or thereabouts, as due, and Parrish, Clarkson and deponent claiming the amount to be less. The items of this claim were fully discussed with Mr. William J. Parrott, a partner of R. W. Elsom, who came from Anderson and Patterson to try and agree upon a settlement. In making up the statement two hundred and fifty dollars was credited on the account, having been paid some time previous by R. F. Walker; this left the balance due \$2,583 33, which account was thoroughly understood by Mr. Parrott, and he carried the amount to Anderson and Patterson, and also a statement of the account, and received for his trouble fifty dollars from Anderson and fifty dollars from Patterson. He afterwards grumbled to me, saying he thought they had poorly paid him for the service he had done them. They referred me to Mr. Elsom to make the payments through him after the arrangement was made, and for the management of the details of the business Elsom was paid his instalment at different periods by Parrish for the Howlett or Roxdale distilleries, and by Colonel Clarkson for Denmead's distillery, in deponent's presence on different occasions, in accordance with the arrangement.

Pending the making the arrangement for the increase of the amount to be paid Anderson and Patterson, there was a disagreeable state of affairs, they endeavoring to force the distiller to their terms by directing the storekeepers not to allow any whiskey to be removed, and on one occasion during this time thirty barrels were brought up to Richmond from Denmead's, and thirty from Howlett's, on the steamer Nellie Jenkins; the one lot being branded and the other not branded. Assessor Patterson, Manson (collector's clerk) McCreary, inspector, and Shepherd, assistant assessor, came over to Richmond, went on board the steamer and declared the goods seized, they having found out that thirty of the barrels were not even branded. They were, however, defied; the whiskey was removed, and nothing more was ever heard from them upon the subject. Just prior to the final arrangement with Elsom, there was on hand at Howlett's fifteen or sixteen tubs of beer which, by a special agreement made with A. J. Gouldman, while the distillers were disagreeing with Anderson and Patterson, were to have been run into whiskey and allowed to pass free. Gouldman, however, broke faith, and reported ten barrels out of about fifty as the product of the beer, and when Elsom, a few days after, took charge, Gouldman turned over the entire amount as in bond. Anderson and Patterson subsequently agreed with deponent to strike off their books all but the ten barrels, Gouldman making a statement that the return was a mistake. Anderson justified Goldman's action to the deponent, saying that Parrish had not paid him up. This lot was shipped to Baltimore as tax-paid whiskey, and was seized, and an officer sent down from Baltimore to investigate the case, to whom Anderson and Patterson displayed their books, setting forth that the tax had been paid, although it had not been paid at that time, but was subsequently paid by deponent and Parrish to avoid complicating the distilleries, and to keep the officers out of trouble. This payment was not made until about thirty days after it was reported paid on the books. I had other transactions with Anderson and Patterson of a similar nature which do not come to my recollection at this time. The first individual transaction which I had with the collector and assessor's office was with Mr. Manson, who gave me a permit for fifty barrels of whiskey, said to be tax paid, which he signed as John H. Anderson, and which whiskey had

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never paid any tax, nor did it ever pay any tax. And further the deponent saith not.

A. CLENDINEN.

Sworn and subscribed before me this eighteenth day of Jannary, A. D. 1868.  
JOHN C. COX, J. P.

DRNMEAD'S, *January 4, 1867, (11 o'clock at night.)*

MY DEAR COLONEL: At 2 o'clock to-day, your agent, Mr. Gosden, handed me your letter at Roxdale. Without taking time to eat my dinner, I at once got into the buggy and drove to this place, where I communicated with Gray, and stopped him from using his brands. He, as he always does, went to work and did all he could to further your wishes. I went on up to Howlett's. Boah had already branded nearly all he had, but I altered all to correspond with your instructions. We fixed up and sent off thirty—nearly all they had. Gouldman came up before we had finished, and objected to the use of his instruments at this place, but I overruled him. He feared such a large shipment might play the devil with him; but I told him I would take all the responsibility—say I stole his brands—anything. Anyhow, I took charge of his kit, and brought his instruments to this place, which I reached in the night. Gray and I went to work and have worked faithfully—scratching off his brands and putting on G.'s. I enclose the number of gallons, proof and number of barrels sent. Colonel, I desire to say that nothing you can ask, in reason, of Gray or I, which we can do, that will not be cheerfully done. We both feel very grateful that you have always been our friend, and it is a pleasure to serve you, at whatever cost of personal comfort. The hill here is so covered with ice, that I had to send to Roxdale for five hands to roll the barrels up the hill to the wagon.

Hoping everything is "lovely," and that the "goose" will still "hang high,"

I beg leave to say, I am truly your friend,

R. F. WALKER.

A true copy of the original letter of that date now in my possession.

J. D. WEED,  
*Special Agent Treasury.*

JANUARY 18, 1868.



# APPOINTMENT OR REMOVAL OF ASSESSORS AND COLLECTORS. 21

*List of collectors and assessors of internal revenue, &c., whose removal is recommended by the Commissioner of Internal Revenue for inefficiency and for other reasons.*

No.	Name.	Office.	District and State.	Successor nominated.	When sent to the Senate.	Remarks.
1	William S. King.....	Assessor.....	3d Massachusetts.....	.....	.....	Case under consideration for the purpose of deciding upon a successor.
2	William H. McCartney.....	Collector.....	3d Massachusetts.....	.....	.....	Commissioner has withdrawn his recommendation in this case. See copy of his letter dated February 19, 1888, herewith.
3	Thomas Wellwood.....	Assessor.....	3d New York.....	.....	.....	Recommendation of Commissioner under consideration.
4	Horner Franklin.....	do.....	8th New York.....	.....	.....	Do.
5	Thomas O'Callaghan.....	Collector.....	9th New York.....	.....	.....	Do.
6	Abner Hoyt.....	Assessor.....	10th New York.....	.....	.....	Do.
7	Lewis Park.....	do.....	25th New York.....	.....	.....	Do.
8	Charles Abell.....	Collector.....	1st Pennsylvania.....	David H. Abell.....	Jan. 23, 1888	No action yet taken by the Senate.
9	S. M. Zoloth.....	do.....	3d Pennsylvania.....	.....	.....	Recommendation of Commissioner under consideration.
10	Henry A. Weaver.....	Assessor.....	2nd Pennsylvania.....	.....	.....	Do.
11	William James.....	Collector.....	3d Virginia.....	John E. Mailford.....	Dec. 4, 1887	1887, to 94, nu- case of Senate d. No
12	Peter M. Pearson.....	Assessor.....	Dist. of Columbia.....	.....	.....	.....
13	Francis W. Kellogg.....	Collector.....	1st Alabama.....	.....	.....	.....
14	A. H. Hall.....	Assessor.....	1st Mississippi.....	Wm. J. Britton.....	Feb. 13, 1888 Jan. 10, 1888	888. 1888, to Presi-
15	James B. Steadman.....	Collector.....	1st Louisiana.....	.....	.....	Case under consideration for the purpose of deciding upon a successor.
16	M. P. Gaddis.....	Assessor.....	2d Ohio.....	.....	.....	Recommendation of Commissioner under consideration.
17	Wm. O. Collins.....	Collector.....	6th Ohio.....	.....	.....	No action yet taken by the Senate.
18	Orrin L. Mann.....	do.....	1st Illinois.....	Thomas J. Kincaid.....	Jan. 10, 1888	Do.
19	Wm. T. Quainham.....	do.....	7th Illinois.....	Wm. Fithian.....	Feb. 11, 1888	Recommendation of General McCook since withdrawn by the President.
20	David T. Lister.....	do.....	8th Illinois.....	Edwin S. McCook.....	Jan. 20, 1888	Case under consideration.
21	John M. Cashman.....	do.....	3d Missouri.....	.....	.....	Do.
22	James T. Abernethy.....	do.....	2d Tennessee.....	.....	.....	The papers containing the testimony in case of Mr. Callcott were transmitted to the Senate Dec. 4, 1887, by the President together with the nomination of Mr. Wood. No action has yet been taken by the Senate.
23	Theophilus C. Callcott.....	do.....	3d New York.....	Edward T. Wood.....	Dec. 4, 1887	The testimony in case of Mr. Patison was transmitted to the Senate by the President December, 1887. The case has not yet been acted upon by the Senate.
24	John H. Patison.....	Assessor.....	4th Virginia.....	.....	.....	.....

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*List of collectors and assessors of internal revenue, &c.—Continued.*

H. R.	Name.	Office.	District and State.	Successor nominated.	When sent to the Senate.	Remarks.
25	John H. Anderson .....	Collector ....	4th Virginia .....	.....	.....	
26	Charles H. Hopkins .....	Assessor ....	1st Georgia .....	.....	.....	
27	Benjamin H. Sheppard .....	Collector ....	3d Mississippi .....	.....	.....	on occasion.







M E S S A G E

OF



THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

*In compliance with a resolution of the Senate of December 18, 1867, information in relation to the occupation of the island of San Juan, in Puget Sound.*

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FEBRUARY 22, 1868.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

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*To the Senate of the United States:*

In answer to a resolution of the Senate of the 18th of December last, requesting information in regard to the island of San Juan, in Puget sound, I transmit a report from the Secretary of State and the papers which accompany it.

ANDREW JOHNSON.

WASHINGTON, *February 20, 1868.*

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*Report of the Secretary of State accompanying the President's message of February 20, 1868, in answer to Senate resolution of December 20, 1867, in relation to the island of San Juan, in Puget sound.*

DEPARTMENT OF STATE,

*February 20, 1868.*

The Secretary of State, to whom has been referred the resolution of the Senate of the 18th of December last, requesting the President to communicate to the Senate, if not incompatible with the public interests, "any agreement between the government of the United States and that of Great Britain in relation to the occupation of San Juan Island, in Puget Sound, with copies of any correspondence on the subject of the claims of the respective governments to said island, and a statement of the reasons why the government of the United States has permitted a joint occupation of the same to Great Britain," has the honor to submit a copy of such of the papers called for by the resolution as are in the possession of this department.

These papers consist of the reports and correspondence of Archibald Campbell, the commissioner on the part of the United States to carry into effect the first article of the Treaty of the 15th of June, 1846, between the United States and Great Britain, with a copy of his correspondence with Capt. Prevost, the commissioner on the part of her Britannic Majesty's government in relation to the boundary line between the continent and Vancouver's Island, and a general discussion of the subject of the claims of the United States and Great Britain to San Juan and other islands of the Haro Archipelago; correspondence between Lewis Cass, Secretary of State, and Lord Russell, the secretary of state for foreign affairs

of Great Britain, in regard to the disputed boundary; Senate executive document No. 10 of the thirty-sixth Congress, first session, containing a message of the President of the United States, "communicating, in compliance with a resolution of the Senate, the correspondence of Lieutenant General Scott concerning the island of San Juan, and papers relating to his mission to the territory in dispute." The papers transmitted include also recent correspondence between this department and the War Department concerning the manner in which the joint military occupation, at first declined by the governor of Vancouver's Island, pending instructions from his government, was subsequently effected; and still later correspondence between the two departments in reference to the existing condition of affairs at San Juan, all of which papers are enumerated more in detail in the subjoined list.

From the papers contained in the Senate document above mentioned, and the communication of the 16th of January, 1868, from the War Department, it appears that General Scott, under the authority of James Buchanan, President of the United States, proposed to the governor of Vancouver's Island a joint military occupation of the island of San Juan "for the temporary adjustment of any present difficulty until the two governments should have time to settle the question of title diplomatically;" but the governor did not then assent to the proposition, for the reason, as stated by himself, that he could not do so, "without the sanction and express instructions of his government;" but that in the ensuing spring of 1860, Admiral Baynes, in command of the British squadron on that station, sent a detachment of marines to the northern part of San Juan Island "for the purpose of establishing a joint military occupancy agreeably to the proposition of Lieutenant General Scott."

A recapitulation of some of the more striking facts in relation to the north-western boundary which appear in the accompanying documents, and in the earlier diplomatic correspondence preceding the treaty, may be useful and convenient.

In the various negotiations which took place between the United States and Great Britain for the settlement of the Oregon controversy, the United States made the proposition that the boundary line should run along the 49th parallel. This line was proposed as a compromise of their conflicting claims to the territory west of the Rocky mountains, between the latitudes of 42° and 54° 40'. For a long period the British government persisted in asserting a claim to the territory lying to the westward of the Columbia river. This pretension was adhered to until a short time previous to the conclusion of the treaty of 1846, when they so far receded from their position that they were willing to adopt the proposed compromise, provided that Vancouver's Island were left to the undivided jurisdiction of Great Britain. The United States finally consented to this concession, and a boundary was adopted having in view this object. This boundary is defined in the first article of the treaty of June 15, 1846, in the language following:

#### ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific ocean: *Provided, however,* That the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

Every officer of the government, so far as the sources of information open to this department show, who had any part in the negotiation, adoption or ratification of the treaty, assented to it with the full understanding that the deflection of the boundary from the 49th parallel was consented to for the sole purpose of

giving the whole of Vancouver's Island to Great Britain, and that to effect this purpose the line was to be carried through the Canal de Haro to the Straits of Fuca, on its way to the Pacific Ocean. This line gives to the United States the Haro Archipelago, of which San Juan Island forms a part.

The treaty having been concluded, and the exciting controversy of forty years having been settled, the government of the United States remained, for a time, without any further interest in the boundary, awaiting the settlement of the country before exhibiting any anxiety to have the line definitively marked.

In November, 1846, Mr. Bancroft, then minister of the United States at London, communicated to this department his apprehensions of a design on the part of Great Britain to claim the boundary line to be through the Rosario Strait instead of the Canal de Haro, so as to throw the island of San Juan and the other islands of the Haro Archipelago within the limits of British jurisdiction. Mr. Bancroft met this pretension promptly, and for a time it was apparently abandoned. He was then under the impression that the Hudson's Bay Company were the parties who sought to possess that valuable group of islands, and that the British ministry did not favor their proceedings.

In January, 1848, Mr. Crampton, the British diplomatic representative accredited to the United States, under instructions from his government, made a proposition to the United States to appoint joint commissioners for the purpose of determining the water boundary. With this proposition was presented a draught of joint instructions to the commissioners, framed so as to leave but little for them to do except to run the line through the channel, which would give to Great Britain all the islands of the Haro Archipelago.

In 1852, the Territory of Oregon, by an act of their legislature, included the Haro Archipelago in one of its counties; and after the passage of this act, the Hudson's Bay Company established a post on San Juan Island. When the Territory of Washington was created these islands were declared by the legislature of that Territory to form a part of Whatcom County. In 1855 the property of the Hudson's Bay Company on San Juan Island was assessed in the same manner as other property within the Territory, and upon their refusal to pay the taxes, their property was advertised and sold, in the usual way, to satisfy the demand. This led to a correspondence between the governors of Vancouver's Island and Washington Territory, in which the former declared that he had the orders of her Majesty's government to regard the islands of the Haro Archipelago as a part of the British dominions. This correspondence, with a heavy claim for damages, was laid before this department by John F. Crampton, esq., the British minister here at the time, with a renewal of his proposition for the appointment of a joint commission to determine the boundary line, and in the event that the proposal could not be met by the government of the United States without difficulty or delay, he suggested "the expediency of the adoption, by both governments, of the channel marked as the only known navigable channel by Vancouver, as that designated as the treaty." In other words, the United States were requested to run the line through Rosario Strait and give up to Great Britain the Haro Archipelago.

The Executive complied with Mr. Crampton's proposal so far as to recommend to Congress the creation of a commission to determine the boundary line, and on the 11th of August, 1856, an act was passed authorizing a commission, on the part of the United States, to unite with similar officers to be appointed on the part of the British government. Instead of adopting the proposed joint instructions to the commissioners, each government instructed its own commissioner as to the duties he was to perform.

In 1857 the commissioners met at Esquimalt harbor, Vancouver's Island, and exchanged credentials, with the understanding that they were mutually invested with full powers; and the discussion of the boundary question took place with this understanding on the part of the United States commissioner.



The discussion thus entered into, in connection with the subsequent diplomatic correspondence on the subject, merits careful attention as an exposition of the views of the two governments in relation to the channel contemplated by the treaty. The United States commissioner bases his claim to the Canal de Haro on the ground that it is the *main* channel south of the forty-ninth parallel leading into the Straits of Fuca, and that it accomplishes the sole object for which the line was deflected south from the forty-ninth parallel, instead of being extended on that parallel to the ocean, namely, to give the whole of Vancouver's Island to Great Britain. His first position is based upon the charts and maps extant at the date of the treaty, and those of latest dates, which show the Canal de Haro to be by far the widest and deepest channel. The second view seems quite as strongly supported by the contemporaneous evidence of those who took part in negotiating the treaty.

The British commissioner lays claim to Rosario Straits, on the ground that it answers to what he designates as the "*very peculiar wording*" of the treaty; that is, he assumes that the Rosario Strait specially meets the requirement of the language, "separates the *continent* from Vancouver's Island;" whereas, the Canal de Haro merely separates *Vancouver's Island* from the continent. And he intimates that the name of the Canal de Haro was omitted in the wording of the treaty, and the usual mode of expression (separating the lesser object from the greater) was designedly reversed in order to carry the boundary line through the Rosario Strait. He presents no contemporaneous evidence, however, to support either his peculiar argument in relation to the language used, or his statement concerning the omission of the Canal de Haro.

The two commissioners disagreed in regard to the boundary channel. The British commissioner having failed to produce any evidence to substantiate his claim that the Rosario Strait is the channel intended by the treaty, or to produce rebutting contemporaneous evidence to that presented by the United States commissioner in favor of the Canal de Haro, offered as a compromise an intermediate narrow channel, which would throw the island of San Juan, the most valuable of the whole group, on the British side of the line. This compromise the United States commissioner refused to accept.

A perusal of the instructions of the two governments to their commissioners, respectively, will throw much light upon the discussion and its result.

The commissioner of the United States was left untrammelled by those addressed to him, and sought to carry out the intentions of the negotiators of the treaty by consulting all the evidence that could be found for his guidance, determined to carry the treaty into effect by running the line through the channel intended by them, wherever that channel was to be found.

The instructions to the British commissioner, however, were in substance the same as those proposed by Mr. Crampton for the two governments to the joint commission, to run the line through the Rosario Strait, allowing him the discretionary power to adopt an intermediate channel, provided that the United States commissioner could not be induced to accept the channel claimed by the British government. Under no circumstances, however, does he appear to have had the power to accept any channel that would not give his government the island of San Juan. This is clearly ascertained from his instructions, and the British commissioner leaves no doubt on the subject when he writes in his letter offering a compromise channel, "beyond what I now offer I can no further go."

From the correspondence which took place between Mr. Cass, Secretary of State, and Lord John Russell, the British Secretary of State for foreign affairs, after the discussion between the joint commissioners had closed, it appears that the British government renewed the proposition for compromise made by their commissioner, but it was declined. Mr. Cass, as will be seen by the accompanying copy of a note of the 25th of June, 1860, to Lord Lyons, then called upon the British government to make a proposition for the adjustment of the difference

between the two governments. This suggestion was renewed by Mr. Trescot, acting Secretary of State, on the 18th of August, 1860, in a note to Mr. Irvine, Chargé d'Affaires *ad interim* of Great Britain, and that government proposed that the question should be left to the arbitration of one of the three following European powers, namely: Belgium, Denmark, or the Swiss republic. This proposition was made in the note from Lord Lyons of the 10th of December, 1860, to General Cass, and no reply or counter proposition has been made to it.

During the late civil war it was not deemed advisable to pursue the negotiation upon the subject, and the questions between the United States and Great Britain arising out of that war have hitherto been so engrossing that it has not been convenient to bestow attention upon others. It is hoped, however, that a suitable juncture for that purpose will soon occur, and that the point at issue may be amicably adjusted to the mutual satisfaction of the parties.

The accompanying papers, maps, and cross section will, it is believed, present to Congress the merits of the question, and the grounds upon which the executive department of this government has claimed that the island of San Juan and the other islands of the Haro Archipelago are within our boundaries as defined by the treaty.

With reference to the question of joint occupation of the island of San Juan by military forces of the United States and Great Britain, it will be seen from the accompanying papers which relate to that subject that the arrangement was made during the administration of James Buchanan, with a view to avert collisions between the settlers or the military forces of the respective countries, such collisions being supposed to be imminent in 1859. The arrangement, however, is temporary in its character, and was made upon condition that no prejudice to the claim of either government should result therefrom.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

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*List of papers accompanying the report of the Secretary of State on the northwest boundary controversy relating to San Juan Island.*

1. Mr. Seward to Mr. Campbell, December 21, 1867.
2. Mr. Campbell to Mr. Seward, January 22, 1868, with accompaniments, namely :
  - I. Discussion of the water boundary question, with maps.
  - II. Correspondence relating to the powers of the commissioners.
  - III. Military occupation of San Juan island.
  - IV. Geographical memoir, with map, and cross-sections of the channel.
3. Senate executive document No. 10, 36th Congress, 1st session.
4. Lord Lyons to Mr. Cass, May 12, 1859.
5. Lord Russell to Lord Lyons, August 24, 1859.
6. Lord Lyons to Mr. Cass, September 3, 1859.
7. Lord Lyons to Mr. Cass, September 7, 1859.
8. Mr. Cass to Lord Lyons, September 8, 1859.
9. Lord Lyons to Mr. Cass, September 9, 1859.
10. Mr. Cass to Mr. Dallas, (with an accompaniment,) September 22, 1859.
11. Lord Lyons to Mr. Cass, October 1, 1859.
12. Lord Lyons to Mr. Cass, October 10, 1859.
13. Lord Lyons to Mr. Cass, October 15, 1859.
14. Mr. Cass to Lord Lyons, (with an accompaniment,) October 22, 1859.
15. Mr. Cass to Mr. Dallas, October 20, 1859.
16. Lord Lyons to Mr. Cass, October 24, 1859.
17. Mr. Cass to Mr. Dallas, October 24, 1859.
18. Lord Russell to Lord Lyons, November 29, 1859.

19. Lord Russell to Lord Lyons, December 16, 1859.
20. Mr. Cass to Mr. Dallas, February 4, 1860.
21. Lord Russell to Lord Lyons, March 9, 1860.
22. Mr. Cass to Mr. Dallas, April 23, 1860.
23. Extract of a note of May 25, 1860, from Lord Lyons to Mr. Cass:
24. Lord Lyons to Mr. Cass, (with accompaniments,) June 6, 1860.
25. Mr. Cass to Lord Lyons, June 8, 1860.
26. Lord Lyons to Mr. Cass, June 9, 1860.
27. Lord Lyons to Mr. Cass, (with an accompaniment,) June 14, 1860.
28. Mr. Cass to Lord Lyons, June 25, 1860.
29. Mr. Irvine to Mr. Trescot, August 17, 1860.
30. Mr. Trescot to Mr. Irvine, August 18, 1860.
31. Lord Lyons to Mr. Cass, December 10, 1860.
32. Deputy Marshal Brown to Mr. Seward, [extract,] September 20, 1866.
33. Mr. Seward to Mr. Stanton, November 19, 1866.
34. Mr. Stanton to Mr. Seward, November 20, 1866.
35. Mr. Stanton to Mr. Seward, (with an accompaniment,) December 22, 1866.
36. Mr. Stanton to Mr. Seward, (with accompaniments,) January 16, 1868.
37. Mr. Stanton to Mr. Seward, [extract,] (with an accompaniment,) January 24, 1868.

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*Mr. Seward to Mr. Campbell.*

DEPARTMENT OF STATE,  
*Washington, D. C., December 21, 1867.*

SIR: I transmit a copy of a resolution adopted by the Senate on the 18th instant, calling for correspondence in relation to the respective claims of the United States and Great Britain to the island of San Juan, and other information connected with the subject.

I will thank you to cause to be selected and arranged copies or extracts from any correspondence or discussions, and any information on the file or records of the commissioner, of the nature indicated in the resolution.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

ARCHIBALD CAMPBELL, Esq., &c, &c., &c.

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*Mr. Campbell to Mr. Seward.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Washington, D. C., January 22, 1868.*

SIR: I have the honor to acknowledge the receipt of your letter of the 21st ultimo, enclosing a copy of a resolution of the Senate "calling for correspondence in relation to the respective claims of the United States and Great Britain to the island of San Juan, and other information connected with the subject," and directing me "to cause to be selected and arranged copies or extracts from any correspondence or discussions, and any information on the files or records of the commission, of the nature indicated in the resolution."

In compliance therewith, I respectfully transmit the papers and information called for by the department, including a map and cross-sections to illustrate the water boundary question.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner of the Northwest Boundary Survey.*

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

## I.—DISCUSSION OF THE WATER BOUNDARY QUESTION.

Letter of Mr. Campbell to Mr. Cass, February 10, 1858, reporting progress of the work, and enclosing correspondence between the United States and British commissioners, viz :

Captain Prevost to Mr. Campbell, October 28, 1857.

Mr. Campbell to Captain Prevost, November 2, 1857.

Captain Prevost to Mr. Campbell, November 9, 1857.

Mr. Campbell to Captain Prevost, November 18, 1857.

Captain Prevost to Mr. Campbell, November 24, 1857.

Mr. Campbell to Captain Prevost, November 28, 1857.

Captain Prevost to Mr. Campbell, December 1, 1857.

Mr. Campbell to Captain Prevost, December 2, 1857.

Captain Prevost to Mr. Campbell, December 3, 1857.

Minutes of proceedings of joint commission.

Letter of Mr. Campbell to Mr. Cass, June 1, 1858, enclosing—

Letter of Mr. Everett to Mr. Campbell, May 29, 1858.

Pamphlet by Mr. William Sturgis, on the Oregon question.

Letter of Mr. Campbell to Mr. Cass, September 25, 1858, with extracts from reports of General Persifer F. Smith and Captains Stoneman and Whiting.

Letter of Mr. Campbell to Mr. Cass, December 1, 1858, enclosing—

Letter of Mr. Bancroft on the interpretation of the first article of the treaty.

Letter of Mr. Campbell to Mr. Cass, January 20, 1859, reviewing the subject of the water boundary, and enclosing—

Copy of proposition for partition of Oregon Territory.

Analysis of first article of the treaty of June 15, 1846.

Correspondence of Mr. Boyd and Mr. Bancroft with the department in relation to the water boundary, viz :

Mr. Boyd to Mr. Buchanan, London, October 19, 1846.

Mr. Bancroft to Mr. Buchanan, London, November 3, 1846.

Mr. Buchanan to Mr. Bancroft, Washington, December 28, 1846.

Mr. Bancroft to Mr. Buchanan, London, March 29, 1847.

Mr. Bancroft to Mr. Buchanan, London, August 4, 1848, enclosing—

Mr. Bancroft to Lord Palmerston, London, July 31, 1848.

Mr. Bancroft to Mr. Buchanan, London, October 19, 1848.

Mr. Bancroft to Lord Palmerston, London, November 3, 1848.

Lord Palmerston to Mr. Bancroft, London, November 7, 1848.

Proceedings of meeting of Joint Commission, August 6, 1858.

Extract from report of Captain Alden, United States navy, October 31, 1858—exercise of jurisdiction by British authorities, and complaint of an American citizen.

Letter of Mr. Campbell to Mr. Cass, June 14, 1859, reporting condition of water boundary question.

Letter of Mr. Campbell to Mr. Cass, June 21, 1859, reporting condition of water-boundary question, and enclosing map with lines marked through different channels.

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*Mr. Campbell to Mr. Cass.*

WASHINGTON CITY, D. C., *February* 10, 1858.

SIR : In accordance with my instructions, I have from time to time reported to the department the progress of the work under my charge, but deem it not inappropriate on the present occasion to recapitulate briefly the operations of the Northwest Boundary Commission since its organization.

On the 14th of February last I was appointed commissioner, and Lieutenant John G. Parke chief astronomer and surveyor, to carry into effect the first

article of the treaty with Great Britain of June 15, 1846, as provided for by the act of Congress of August 11, 1856. I received my instructions on the 20th of February, and proceeded at once to collect all such information within my reach as might contribute to a proper understanding of the meaning of the language of the treaty, and aid in the execution of the work intrusted to me. Lieutenant Parke was instructed to organize a party and prepare a suitable outfit for the prosecution of the survey along the 49th parallel of north latitude, from the western termination of the boundary line on the Gulf of Georgia to the Rocky Mountains. By direction of the department I also made an arrangement with the Superintendent of the Coast Survey for the employment of the surveying steamer *Active* and brig *Fauntleroy*, and the officers and assistants attached thereto, under the authority contained in the fifth section of the act organizing the commission, to make such hydrographical surveys as might be required to aid in the demarcation of the water boundary. Having learned that the British commissioner, Captain J. C. Prevost, of her Majesty's steamer *Satellite*, had left England at the close of December, and might be expected to reach the Straits of Fuca in the month of June, I hastened preparations as much as possible, to meet him at that time.

On the 20th of April, with the party as far as organized, I left New York, and reached San Francisco *via* the Isthmus of Panama on the 15th of May. Captain Alden, of the United States navy, commanding the "*Active*," reported to me that he was preparing the steamer for sea. During the time required for that purpose the organization of the party and outfit for the survey of the land boundary were completed. The "*Active*" being ready for sea on the 17th of June, we started on that day for the Straits of Fuca, and arrived at Victoria, the seat of government of Vancouver's Island, on the 22d, and there learned that the British commissioner had arrived in the neighboring harbor of Esquimalt on the 12th of June.

On the 27th of June the joint commission held its first official meeting. We exchanged credentials and exhibited our respective instructions, by which it appeared that we were mutually invested with full powers to carry into effect the first article of the treaty of June 15, 1846, so far as it relates to the water boundary\*—the powers of the British commissioner being limited thereto, and to the determination of the point where the forty-ninth parallel of north latitude intersects the eastern shore of the channel separating the continent from Vancouver's island. In accordance with the act authorizing the commission, my instructions empowered me to determine and mark the entire boundary line between the United States and the British Possessions, as described in the first article of the treaty.

Captain Prevost stated that Captain Richards, of the navy, the chief astronomer and surveyor of the British commission, in command of her Majesty's steamer *Plumper*, was on his way to Vancouver's Island, but could not be expected before September, having only left England at the close of the month of March. In the instructions which Captain Prevost exhibited to me, he is designated as first commissioner, and Captain Richards as second commissioner; but the powers of commissioner, as I understood Captain Prevost, would only devolve upon Captain Richards in case of the death of the first commissioner, and the title was only given to provide for such a contingency; his ordinary duties being those of chief astronomer and surveyor.

The steamer *Satellite* not being prepared for surveying operations, Captain Prevost informed me that he could do nothing toward the determination of the water boundary until the arrival of the "*Plumper*," and after a survey of the channels and islands between the continent and Vancouver's Island and a chart of the same could be made by the chief astronomer and surveyor. This work having in a great measure been already performed by the officers of the United States Coast Survey during the past three years, and the charts having been

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\* See subsequent correspondence relative to powers of commissioners.



published, I was prepared, without delay, to enter upon the settlement of the question, and so informed the British commissioner.

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In consequence of an accident to her machinery, which detained her some time at Rio Janeiro, the steamer *Plumper* did not arrive at Vancouver's Island as soon as she was expected. Captain Prevost awaited her arrival until the close of October, when he concluded to enter upon the determination of the boundary line without further delay. The joint commission met on the 26th day of October, and Captain Prevost, expressing his regret at the continued absence of Captain Richards, stated that he had had opportunities of verifying the general accuracy of the Coast Survey chart of the channels and islands between the continent and Vancouver's Island, and was willing to adopt it for the purpose of determining the boundary line. We therefore proceeded to the discussion of the subject, which resulted in a correspondence, a copy of which is herewith transmitted for your information as embodying fully our respective views in regard to "the channel which separates the continent from Vancouver's Island;" through which, according to the treaty, the boundary line is to be traced.

From a perusal of the correspondence it will be perceived that for a portion of the distance between the forty-ninth parallel and the Straits of Fuca, we disagree as to "the channel" referred to in the treaty; the British commissioner claiming Rosario Straits and I maintaining the Canal de Haro to be "the channel." Between these two channels are several islands, embracing a space of about 400 square miles, the sovereignty of which is involved in a decision of the question. Captain Prevost finally proposed such a compromise as would throw within the territory of the United States all the islands but San Juan, the largest and most valuable of the group. Being fully satisfied, from my own observation, that the Canal de Haro is the main channel, and consequently "the channel" intended by the treaty, and being supported in this opinion by indisputable contemporaneous evidence of the highest official character, I declined to accede to any compromise. Captain Prevost thereupon proposed a reference of the whole matter to our respective governments, to which proposal I also declined to accede, but informed him that I should report the proceedings of the joint commission to my government, and at the same time submit all the correspondence on the subject.

Deeming this course to be the proper one under the circumstances, I have the honor to lay before you a copy of the proceedings and correspondence above referred to for your consideration and action thereon, and for such further instructions in relation to the determination of the water boundary as may be deemed advisable and necessary by the department.

The speech of Senator Benton of June 18, 1846, on the ratification of the treaty, to which frequent reference is made in the accompanying correspondence, will be found in the appendix to the *Congressional Globe*, volume sixteen, first session twenty-ninth Congress, 1845-'6, page 867. And I would respectfully refer you to your own speech on the same occasion, in which you confirm the correctness of my views in regard to "the channel which separates the continent from Vancouver's Island." At the time of my discussion with the British commissioner, I was not aware of the existence of this important additional contemporaneous testimony. Although differing with Mr. Benton in the construction to be placed upon many points of the treaty, and opposing its ratification as firmly as Mr. Benton advocated it, there is no disagreement between you as to the meaning of the language of the treaty defining the boundary line now in dispute. In commenting upon the first article of the treaty you thus describe the water boundary:

Vancouver's Island is separated from the continent by an arm of the sea about two hundred and fifty miles in extent; different portions of which are known by different names. One part is called the Straits of Fuca; another the *Canal de Arro*; another the Gulf of Georgia; and the fourth, Queen Charlotte's Sound.

Your speech will be found in the appendix to the Congressional Globe, volume 17, second session twentieth Congress, 1846-'47, page 26.

With the highest respect, I have the honor to be your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,

*Secretary of State.*

# CORRESPONDENCE BETWEEN THE UNITED STATES AND BRITISH COMMISSIONERS.

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, Gulf of Georgia, October 28, 1857.*

SIR: With reference to the various consultations we have had as to the direction in which the boundary line should run through the channel separating the continent from Vancouver's Island, at and to the southward of the forty-ninth parallel of north latitude, into the Straits of Juan de Fuca, and from thence to the Pacific Ocean, I have the honor to communicate to you in writing the views I entertain of the subject.

2. As the water boundary line to be determined is described in the first article of the treaty between Great Britain and the United States of 15th June, 1846, it in my opinion clearly follows that the direction in which the said line is to be traced should alone be sought in the words of that treaty. I will here quote them so far as they relate to the particular line of water boundary:

The line of boundary between the territories of her Britannic majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island; and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: *Provided, however,* That the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

3. Now, upon reference to the chart, it will be found, what indeed is the fact, that at the forty-ninth parallel of north latitude, there is only one navigable channel lying between the continent and Vancouver's Island. This channel is commonly called the Gulf of Georgia, and in its open waters will be found the initial point of the boundary line. From this point there can be but little difficulty in carrying the boundary line, according to the words of the treaty, "southerly through the middle of the said channel," to about  $48^{\circ} 45'$  of north latitude. Here the waters are studded with islands, through which it is generally admitted two navigable passages are to be found. One is now commonly designated the Rosario Strait, and is situated near to the continent; the other is called the Canal de Arro, and is to be found nearer to Vancouver's Island. Through which of these two channels the boundary line should pass may at first sight appear a matter of doubt, but the precise wording of the treaty, I think, sufficiently determines it. The line is to be carried through the middle of a navigable channel separating the continent from Vancouver's Island, and the only navigable channel separating the continent from Vancouver's Island; at this position is the channel generally called the Rosario Strait. Therefore, my entire conviction is that the boundary line should be carried through those waters known as the Gulf of Georgia into the Rosario Strait, to the Straits of Fuca, and thence to the Pacific Ocean.

4. By a careful consideration of the wording of the treaty it would seem distinctly to provide that the channel mentioned should possess three characteristics: 1st. It should separate the *continent* from Vancouver's Island. 2d. It



should admit of the boundary line being carried through the middle of it in a southerly direction. 3d. It should be a navigable channel. To these three peculiar conditions the channel known as the Rosario Strait most entirely answers.

5. It is readily admitted that the Canal de Arro is also a navigable channel, and therefore answers to one characteristic of the channel of the treaty; although I may as well here mention that from the rapidity and variableness of its currents, and from its being destitute of anchorages, except at its extreme ends, it is unsuitable for sailing vessels, and would scarcely ever be used by them so long as the passage through the Rosario Strait remained available; as the currents in that strait being generally regular, and the anchorages convenient and secure, it is by far the more navigable channel of the two. But the Canal de Arro will not meet the two remaining characteristics of the channel of the treaty. It literally and geographically does not separate the continent from Vancouver's Island, that continent having already been separated by another navigable channel, the Rosario Strait; and further, it will be found in tracing the line of boundary according to the literal wording of the treaty, which appears to me peculiarly precise and clear, that the line to reach the Canal de Arro must proceed for some distance in a westerly direction, for which deviation from a southerly direction no provision is made in the treaty. I therefore am unable to admit that the Canal de Arro is the channel of the treaty.

6. Having thus frankly communicated in writing the views that I have already expressed to you verbally, I shall feel indebted to you if you will be so good as to favor me in like manner with your views on the subject, in order that I may devote to them every consideration and reflection.

With the greatest respect and esteem, I beg you will allow me to subscribe myself,

Your most obedient and humble servant,

JAMES C. PREVOST.

*Capt. H. M. Ship Satellite, and Her Britannic Majesty's Commissioner  
for determining the aforesaid Line of Boundary.*

ARCHIBALD CAMPBELL, Esq.,

*United States Commissioner N. W. Boundary, &c., &c., &c.*

*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

*Camp Simiahmoo, 49th Parallel, November 2, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of the 28th ultimo, embodying your views in relation to the determination of the water boundary between the United States and the British possessions, as described in the 1st article of the treaty of June 15, 1846; and in compliance with your request I herewith communicate my views on the subject for your consideration.

The following is the description of the whole boundary line, that part of it relating to the water boundary being underscored:

"From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward *along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.*"

It was conceded on both sides in our recent discussions that there would be

no difficulty in tracing the boundary line through the Gulf of Georgia and the Straits of Fuca, (the northern and southern extremities of the line between the forty-ninth parallel and the Pacific Ocean;) but as there are several navigable channels connecting their waters, a question arose as to which of these was "*the channel*" intended by the treaty. These channels are caused by a cluster of islands, and are of various dimensions. Among them, however, one is found pre-eminent as to width, depth, and volume of water, and in every respect satisfying the requirements of the treaty. This channel has been known since its first discovery as the "*Canal de Haro*," and was the only one usually designated by name on the maps in use at the time the treaty was under consideration. While the other channels only separate the islands in the group from each other, the Canal de Haro, for a considerable distance north of the Straits of Fuca, and where their waters unite, washes the shore of *Vancouver's Island*, and is therefore the only one which, according to the language of the treaty, "*separates the continent from Vancouver's Island.*"

The objection raised that for a short distance it would not carry the boundary line in a southerly direction, and thus fails to meet one of the requirements of the treaty, I think, will apply with equal force to the Gulf of Georgia, if the term "southerly" is to be construed in a strictly nautical or technical sense, and with still greater force to the Straits of Fuca, which, for the greater part of its course, runs northwesterly; for the language of the treaty being thence "*southerly through the middle of the said channel, and of Fuca's Straits to the Pacific Ocean,*" the direction applies throughout the whole extent of the line. If objection is made on this ground, the treaty will be nullified and cannot be carried into effect. It is quite evident, however, that the term "southerly" is to be understood only in its common and general sense. It is undoubtedly used here in opposition to "northerly," and simply to show that Vancouver's Island is to be left on the British instead of the American side of the line, for it can hardly be supposed that the framers of the treaty would have ventured, with the general maps before them, to decide upon the whole course of the line except in the most general terms. The impracticability of applying the same test to the Straits of Fuca clearly shows in what sense the term is to be understood.

Besides the Canal de Haro, there is a prominent channel nearer to the main land, known at present upon the Coast Survey and British Admiralty charts as "*Rosario Strait.*" The early Spanish navigators called it the "*Canal de Fidalgo.*" Captain Wilkes named it "*Ringgold's Channel.*" It is sometimes called "*Vancouver's Straits*" or "*channel,*" but, except on the Spanish Admiralty maps, I cannot learn that it was ever designated by name on any of the general maps of the northwest coast likely to be used at the time the treaty was made. "*Rosario Straits*" is a navigable channel, but it does not "*separate the continent from Vancouver's Island.*" In no part of its course does it touch upon the shore of either. It separates the islands of Lummi, Sinclair's, Cypress, Guemes and Fidalgo on the east, from Orcas, Blakely, Decatur and Lopez islands on the west, but in no respect does it "*separate the continent from Vancouver's Island,*" and cannot, therefore, in my opinion, be claimed, in accordance with the language of the treaty, as *the channel* therein referred to.

There is also another navigable channel connecting the Gulf of Georgia with the Straits of Fuca. It passes between the islands of San Juan, Spieden and Stewart on the west, and Waldron, Orcas, Shaw and Lopez on the east; but, like Rosario Straits, fails to touch the continent or Vancouver's Island. There are besides other channels no doubt navigable, but none except the "*Canal de Haro*" answers the requirements of the treaty in all respects.

Although I do not regard the relative merits of the navigability for sailing vessels of the Canal de Haro and Rosario Straits as having any bearing on the determination of the question before us, both being acknowledged navigable in the sense of the treaty, yet, as you have expressed an opinion thereon unfavor-

able to the Canal de Haro, I must beg respectfully to call your attention to the remarks of Captain Alden of the United States navy on the same subject. This gentleman was for many years in charge of the hydrographic survey of the Pacific coast, and during the working seasons of three years was engaged in examining and surveying these channels. In a report to the Superintendent of the Coast Survey in 1855, he says: "The Gulf of Georgia and Straits of Fuca are connected by two good ship channels called on the charts Haro and Rosario straits. They are of sufficient width, and navigable for vessels of the largest class. The great depth of water presents a difficulty, but anchorages may be had for the most part, as the chart shows, at convenient distances along the shores." In a previous report in 1853, in comparing the two channels, he says that "in almost every respect" the Canal de Haro is the "better" of the two channels. And again in the same report, after speaking of the various channels, he says: "It will be seen that the Canal de Haro is the widest, deepest and best channel." He expressed to me frequently the same opinion after my arrival on this coast, during the brief period in which he was attached to the boundary commission as commander of the Coast Survey steamer Active. My great deference to your knowledge of nautical affairs obliges me to avail myself of the opinions of one of the most experienced and accomplished officers of our Navy and Coast Survey upon a subject relating purely to navigation. No person, however, can travel on these inland waters, and through these channels, and fail to be impressed with the idea of their peculiar adaptation to steam navigation, and the belief is general that eventually steamboats will supersede, in a great measure, the use of sailing vessels. The Canal de Haro, being a much shorter communication between the Gulf of Georgia and the Pacific Ocean, would then have an advantage over Rosario Straits.

From the views hereinbefore expressed, you will perceive that even if we adhere to the mere letter of the treaty, I am firmly convinced that the Canal de Haro is "the channel" through which the boundary line should pass, and unless your consideration thereupon should modify your views, we are still as far from a determination of the boundary line as when we commenced the discussion of the subject. Therefore, should your opinion remain unchanged, it must be evident that, by taking the *literal* reading of the treaty alone as our guide, we are not likely to come to an agreement, nor will its "precise wording" solve the doubt which you intimate may arise at first sight of the chart, as to which of the two channels the boundary line should pass through. I therefore think it becomes necessary to look beyond the mere words of the treaty, and endeavor, if possible, to reach the actual intentions of the treaty makers in using them, for undoubtedly they must have had in their minds some particular channel, though not designated by name in the treaty.

The rule laid down by Vattel is, that, "as soon as we meet with any *obscurity* in a treaty, we should seek for *what was probably in the thoughts of those who drew it up, and interpret it accordingly.*"

Now, however clear it may be to me that the Canal de Haro is "the channel," taking the words of the treaty in the most literal sense consistent with its execution, yet the fact that you are as firmly convinced that Rosario Straits is "the channel," would imply that there was some obscurity in the language of the treaty before us.

Vattel also says:

It is a question in the interpretation of a treaty to know what the *contracting powers have agreed upon, in order to determine precisely*, on any particular occasion, what has been *promised and accepted*—that is to say, not only what one of the parties has had the *intention to promise*, but, also, what the other has *reasonably and sincerely thought to be promised*; what has been sufficiently declared to him, and upon which he must have *regulated his acceptance*. \* \* \* The interpretation of every act, and of every treaty, ought, then, to be made according to certain rules proper to determine the sense of them, such as the parties concerned *must naturally have understood* when the act was *prepared and accepted*.

He again says :

The *reason* of the treaty, that is, the *motive* which led to the making of it, and the view there proposed, is one of the most certain means of establishing the true sense, and great attention ought to be paid to it whenever it is required to explain an obscure, equivocal and *undetermined* point.

Following the above rules for the interpretation of the treaty before us, so far as it devolves upon us to carry it into effect, I will proceed to prove, by cotemporaneous evidence of the highest authority, that the Canal de Haro was the channel proposed by the British government, and accepted by the United States government, as the one through which the boundary line was to be traced ; and that the language of the treaty, drawn up by the British government, was intended to convey that fact, and was so understood by the government of the United States.

The correspondence in relation to the treaty of June 15, 1846, published by order of the Senate of the United States, will show conclusively that the reason or motive for not carrying the forty-ninth parallel as a boundary line to the Pacific Ocean was, that the British government refused to surrender the southern cape of Vancouver's Island, which was claimed by the American government. The latter finally agreed to the proposal of the former, to make such a deflection from the forty-ninth parallel as would avoid dismembering the island. It is certainly fair to suppose that, in carrying out this intention, the nearest natural boundary would be sought by the negotiators, which the maps would show to be the Canal de Haro.

Mr. McLane, the ambassador of the United States, sent specially to Great Britain to aid in settling the Oregon boundary question, after nearly a year's negotiation, communicates (May 18, 1846) to Mr. Buchanan, then Secretary of State, and one of the signers of the treaty, the nature of the proposal made by Lord Aberdeen for a settlement of the question, as follows :

I have now to acquaint you that, after the receipt of your despatches of the 15th instant, by the "*Caledonia*," I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an amicable settlement of the Oregon question, and the *nature of the proposition* he contemplated submitting for that purpose, formed the subject of a *full and free conversation*. I have now to state that instructions will be transmitted to Mr. Pakenham, by the steamer of to-morrow, to submit a new and further proposition, on the part of this government, for a partition of the territory in dispute. The proposition, most probably, will offer *substantially* as follows :

1st. To divide the territory by the extension of the line on the parallel of forty-nine to the sea—that is to say, the arm of the sea called Birch's Bay—thence, by the *Canal de Haro* and Straits of Fuca, to the ocean, and confirming to the United States—what, indeed, they would possess without special confirmation—the right freely to use and navigate the strait throughout its extent.

Mr. McLane also states, *substantially*, the other articles of the treaty, and a comparison of the treaty itself with his statements of their substance will show how accurately he described them, though he does not profess to give the exact words. He evidently *fully* understood the nature of the proposition to be made ; and his views were communicated to his government for their thorough understanding of the meaning of the language that would be used in the *projet* of the treaty. The very general description he gives of the water line shows, what we know must have been the case, that the framers of the treaty had before them only the general maps of the coast, and could not pretend to describe with accuracy the minute courses of the line.

In the same letter he says :

During the preceding administration of our government, the extension of the line on the forty-ninth parallel to the Straits of Fuca, as *now* proposed by Lord Aberdeen, was actually suggested by my immediate predecessor, as one he thought his government might accept.

He again says :

I may add that I have not the least reason to suppose it would be possible to obtain the extension of the forty-ninth parallel to the sea, so as to give the *southern cape of Vancouver's Island to the United States*.

From the foregoing extracts it will be clearly perceived that the object of the projectors of the treaty was to run the line so as to avoid cutting off the southern cape of Vancouver's Island, and that the Canal de Haro was selected as the channel adapted to that object.

President Polk, before accepting the proposal submitted by the British government, (received at the same time with Mr. McLane's letter,) laid it before the Senate (the co ordinate branch of the treaty-making power) for their advice on the subject; and, with his message transmitting it, he also submitted Mr. McLane's letter of the 18th of May, explanatory of the proposition, or *projet* of the treaty. And it is to be presumed he did so that the Senate might clearly understand the nature of the proposal upon which their advice was asked. They advised him to accept it; and, in accordance with their advice, the treaty was adopted by him, and submitted to the Senate for its ratification.

To show the Senate's understanding of the meaning to be attached to the words of the treaty, "*the channel which separates the continent from Vancouver's Island*," I must call your attention to the language of Mr. Benton, one of the leading members of that body. In his speech on the treaty, the day of its ratification, he says :

The line established by the first article follows the parallel of forty-nine degrees to the sea, with a slight deflection, through the Straits of Fuca, *to avoid cutting the south end of Vancouver's Island*.

The first article of the treaty is in *the very words* which I myself would have used if the two governments had left it to me to draw the boundary line between them.

And, in describing the line, he says :

When the line reaches the channel which separates Vancouver's Island from the continent, (which it does within sight of the mouth of Frazer's River,) it proceeds to the middle of the channel, and thence, turning south, *through the channel de Haro*, (wrongly written Arro on the maps,) to the Straits of Fuca, and then west, through the middle of that strait, to the sea. This is a fair partition of these waters, and gives us everything we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay, and, with them the *cluster of islands*, probably of no value, between *de Haro's channel and the continent*.

After reviewing the other articles of the treaty, Mr. Benton concludes :

In my high and responsible character of constitutional adviser to the President, I gave my opinion in favor of accepting the propositions which constitute the treaty. The first article is in the very terms which I would have used, and that article constitutes the treaty. With me it is the treaty.

I have thus presented to you, in writing, the evidence I laid before you during our discussions—that the Canalde Haro must be the channel referred to in the treaty, through the middle of which the boundary line is to be traced. This evidence is entitled to the greatest weight, considering the official positions occupied by Mr. McLane and Mr. Benton during the negotiation and ratification of the treaty, and is conclusive with me.

I am not aware of any evidence going to show that Rosario Straits was at all in the thoughts of the negotiators of the treaty, or that it was the intention or understanding of the two governments that the boundary line was to pass through it. The only *claim* I have been able find, on the part of the British government, that such was the case, is contained in a letter of Mr. Crampton to the Secretary of State, (Mr. Buchanan,) dated January 13, 1848, in which he calls the attention of our government to the expediency of endeavoring to arrive at an early settlement of everything connected with the Oregon boundary question, and particularly of the boundary line between the continent and Vancouver's Island. Mr. Crampton's letter will be found in the executive document of the House of Representatives for 1851, accompanying the message of President Fillmore for that year. In that letter Mr. Crampton gives his opinion



as the meaning of the words "the channel which separates the continent from Vancouver's Island." He says :

In regard to that portion of the boundary line, (the water boundary.) a preliminary question arises, which turns upon the *interpretation of the treaty*, rather than upon the result of local observation and surveys.

The convention of June 15, 1846, declares that the line shall be drawn down the middle of the "*channel*" which separates the continent from Vancouver's Island; and upon this it may be asked what the word "channel" was intended to mean.

Generally speaking, the word "channel," when employed in treaties, means a deep and navigable channel. In the present case, it is believed only one channel, that, namely, which was laid down by Vancouver on his chart, has, in this part of the gulf, been hitherto surveyed and used; and it seems natural to suppose that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view.

From the above extracts from Mr. Crampton's letter—written within two years after the conclusion of the treaty—it will be perceived that no *evidence* is presented to show that the channel called Rosario Straits was the one intended by the negotiators. If there had been any evidence that such was their intention, it would undoubtedly have been produced. But Mr. Crampton is mistaken even in his assumption that Vancouver's channel was the only one in that part of the gulf that had been hitherto surveyed and used; hence his inference that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view, falls to the ground. The Canal de Haro had been both surveyed and used by the Spanish government and our own.

Mr. Crampton, at the conclusion of his letter, remarks that, as the question is "one of interpretation, rather than of local observation and survey, it ought, in the opinion of her Majesty's government, to be determined before the commissioners go out." It would thus appear that the British government regard an interpretation of the treaty as necessary to an understanding of the negotiators in employing the word "channel."

Having in this communication, as in our recent discussions, frankly laid before you my views in regard to the literal meaning of the treaty, and having, also, shown by cotemporaneous evidence what was the understanding of the government of the United States as to the intention of the British government in the projet of the treaty, and of the meaning of the words of the treaty itself, I can only repeat that my convictions in regard to the channel are so fixed that I cannot admit a doubt upon the subject.

With the highest respect and esteem, I have the honor to subscribe myself your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for  
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

*British Commissioner Northwest Boundary, &c., &c., &c.*

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*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

*Esquimault, Vancouver's Island, November 9, 1857.*

SIR : I have the honor to acknowledge the receipt of your letter of the 2d instant, containing a statement of your views of the interpretation to be put upon the first article of the treaty of the 15th June, 1846, between Great Britain and the United States, so far as the article relates to the water boundary to be traced between the possessions of the two countries.

2. From what has passed, I think it may now be considered as established that there is no difficulty in tracing the boundary line through the waters now

called the Gulf of Georgia, and through the waters of the Straits of Fuca to the Pacific Ocean, but that it is in the space between these waters that the question arises as to which is the channel of the treaty. I advance that the channel now called the Rosario Strait is the channel through which the boundary line should pass; you assert that your "convictions" "are fixed" that the Canal de Haro is the channel of the treaty. I have given every consideration to all the points you have advanced, and I have most carefully weighed all the arguments you have adduced in support of your views, and I regret extremely that your views and mine upon the subject should be so widely different.

3. Before commencing to reply to the arguments you have advanced in opposition to the views I have expressed, I will state that I fully acknowledge the weight to be attached to the opinions you have quoted from Vattel, that in cases of obscurity in the language of a treaty its interpretation is to be sought in the intentions of the negotiators. But while fully recognizing this, and while ever being ready to bow to the opinion of an authority so high as Vattel, I must, on the other hand, maintain that when the language of a treaty is clear and precise, and *will admit* to be interpreted according to *its strict and literal sense*, there cannot be any need to seek for aught else to its elucidation.

4. In support of my proposition that the Rosario Strait should be the channel of the treaty, I advance that it is the only channel that will admit of being considered the channel, according to the treaty, which "separates the continent from Vancouver's Island." You state, that "while the other channels only separate the islands in the group from each other, the Canal de Haro for a considerable distance north of the Straits of Fuca, and where their waters unite, washes the shores of Vancouver's Island, and is, therefore, the only one which, according to the language of the treaty, separates the continent from Vancouver's Island." Surely this would prove the converse of the proposition. It appears to me a direct proof that the Canal de Haro is the channel separating *Vancouver's Island* from the *continent*, and, therefore, so long as other channels exist more adjacent to the continent, cannot be the channel which "separates the *continent* from *Vancouver's Island*." I would ask your best attention to this most peculiar language of the treaty, in which the usual terms of expression appear to be designedly reversed, for the lesser is not separated from the greater, but the greater from the lesser—not the *island* from the *continent*, but the *continent* from the *island*; and, therefore, it would seem indisputable that where several channels exist between the two, that channel which is the most adjacent to the continent must be the channel which *separates the continent* from any islands lying off its shores, however remote those islands may be. You state that the Rosario Strait does not separate the continent from Vancouver's Island, because "in no part of its course does it touch upon the shores of either," but that "it separates the islands of Lummi, Sinclair, Cypress, Guemes, and Fidalgo on the east, from Orcas, Blakely, Decatur, and Lopez islands on the west." I would submit that the islands of Lummi, Sinclair, Cypress, Guemes, and Fidalgo are lying close to the shores of the continent, and that between *them and the continent* is *no navigable channel* which would answer to the channel of the treaty, and that if the Rosario Strait is the channel separating these islands from Orcas, Blakely, Decatur, and Lopez islands, it is also the navigable channel separating the continent from them; and in separating the first named islands from Orcas, Blakely, Decatur, and Lopez islands, it also separates the first named islands from San Juan, Sidney, James's islands, &c., and from Vancouver's Island; and, therefore, if separating the continent from Orcas, Blakely, Decatur, and Lopez islands, it also separates the continent from San Juan, Sidney, James's Island, &c., and from Vancouver's Island.

5. In answer to my statement that the Canal de Haro will not meet one of the conditions of the channel of the treaty, as it will not admit of the boundary



as the meaning of the words "the channel which separates the continent from Vancouver's Island." He says :

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From the above extracts from Mr. Crampton's letter—written within two years after the conclusion of the treaty—it will be perceived that no *evidence* is presented to show that the channel called Rosario Straits was the one intended by the negotiators. If there had been any evidence that such was their intention, it would undoubtedly have been produced. But Mr. Crampton is mistaken even in his assumption that Vancouver's channel was the only one in that part of the gulf that had been hitherto surveyed and used; hence his inference that the negotiators of the Oregon convention, in employing the word "channel," had that particular channel in view, falls to the ground. The Canal de Haro had been both surveyed and used by the Spanish government and our own.

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5. In answer to my statement that the Canal de Haro will not meet one of the conditions of the channel of the treaty, as it will not admit of the boundary

line being carried into it in a southerly direction, you state that the objection applies "with equal force to the Gulf of Georgia, if the term southerly is to be construed in a strictly nautical or technical sense, and with still greater force to the Straits of Fuca, which, for the greater part of its course, runs north-westerly, for the language of the treaty being 'thence *southerly through the middle* of the said channel *and* of Fuca's Strait to the Pacific Ocean,' the direction applies throughout the whole extent of the line;" and you further state that "if objection is made on this ground the treaty will be nullified and cannot be carried into effect." This conclusion I cannot admit. It can hardly, I think, be disputed that when the words of a treaty *can be carried out* in their strict and literal sense they should be so interpreted; when they cannot be so carried out, the intentions of the negotiators and the dictates of common sense have to be sought, and from them should the interpretation be deduced. From the Gulf of Georgia to the Straits of Fuca the boundary line *can be carried* through the Rosario Strait in a "southerly direction;" to pass through the Canal de Haro it must take a westerly course; therefore, so far as this particular is concerned, I conceive that the Rosario Strait admits of a closer adherence to the words of the treaty than does the Canal de Arro, and should, for this reason, be chosen in preference to a channel which would cause a wider departure from the words of the treaty.

6. In alluding to the necessity in cases of obscurity to seek the interpretation of a treaty in the intentions of its negotiators, you observe that you will "prove by contemporaneous evidence of the highest authority that the Canal de Haro was the channel proposed by the British government and accepted by the United States government as the one through which the boundary line was to be traced, and that the language of the treaty drawn up by the British government was intended to convey that fact, and was so understood by the government of the United States," and you proceed to quote from a letter of Mr. McLane, the ambassador of the United States, sent specially to Great Britain to aid in settling the Oregon boundary question, and from the speech of Mr. Benton, one of the leading members of the Senate of the United States. Evidence from so high a source as this is most unquestionably entitled to the greatest respect and deepest consideration. That consideration I have given it, and I assure you it has had its full weight with me. But I would respectfully observe that neither Mr. McLane nor Mr. Benton were the actual negotiators of the treaty, and however valuable their opinions may be to the elucidation of obscure points, yet that these opinions can in no way alter the *actual wording* and *terms* of the treaty. Mr. McLane, in his report to the Secretary of State for the United States, writes that the proposition of the British government *most probably* will offer substantially as follows:

First, to divide the territory by the extension of the line on the parallel of 49 to the sea; that is to say, to the arm of the sea called Birch's Bay, thence by the Canal de Haro and Straits of Fuca to the ocean.

Now this is stated to have been the *probable proposition*; it appears strange, if it was the *adopted proposition*, that the simple and unmistakable wording used by Mr. McLane should not have been retained. The fact that it was not retained would seem rather to show that discussion on the subject had taken place, and that the line of boundary had been designedly altered and the wording of the treaty as it now stands substituted to meet the alteration, the channel through which the boundary line was to pass not being designated by name, inasmuch as it had no name on the map, which was, I have not the least doubt, used by the British government at the time, viz., that of Vancouver, where the channel now called the Rosario Strait is shown, *as, in fact, it really is*, as a continuation of the waters now called the Gulf of Georgia, the whole being named by Vancouver the Gulf of Georgia. It is quite possible that in viewing the boundary line as passing through the Canal de Haro some objection might have been made to the nearness of some of the islands to Vancouver's Island,

and as the objection did not apply with equal force to the continent, and as the islands between the two were deemed, according to Mr. Benton, to be barren, rocky, and valueless, it is not at all improbable that the slight alteration in the line would be conceded without difficulty, and might be considered too trivial, considering the important interests at stake at the time for public discussion or reference. I am the more strengthened in my opinion on this subject from having been officially informed by high and competent authority that the channel commonly known in England as the "Vancouver Strait," that now called the "Rosario Strait," was the channel contemplated by the British government as the channel of the treaty, and the *mention of a particular channel* by Mr. McLane and the absence of the *name of that channel* from the treaty, together with the *very peculiar wording* of the treaty, would seem almost conclusively to prove the fact.

7. I would now respectfully call your attention to the language of Mr. Benton, in the speech which he made in the Senate upon the ratification of the treaty, and had you not yourself alluded to it I should have quoted it in further proof of what I have advanced as to the Rosario Strait being the channel "which separates the *continent* from *Vancouver's Island*." In describing the boundary line he designates the channel as being the one which separates "*Vancouver's Island* from the *continent*," and he then proceeds to trace the line through the Canal de Haro to the Straits of Fuca, clearly showing what was the impression on his mind of the wording required to meet the boundary line he described. The Canal de Haro, or Arro, is undoubtedly the navigable channel which, at its position, separates *Vancouver's Island* from the *continent*, and therefore while other channels exist more adjacent to the continent cannot be the channel which "separates the *continent* from *Vancouver's Island*."

8. To show that the Canal de Haro could not have been the only channel regarded in the United States as the channel of the treaty, both at the time and afterwards, I beg to mention that I have in my possession a map of Oregon and Upper California, published at Washington City in 1848, "drawn by Charles Preuss, *under the order of the Senate of the United States*," in which the boundary line between the British possessions and those of the United States, distinctly lithographed and colored, is carried down the Gulf of Georgia, through the channel now called the Rosario Strait, and thence through the Straits of Fuca to the Pacific Ocean. If the Canal de Haro was the only channel contemplated by the Senate of the United States as the channel of the treaty, it seems remarkable that within a short period of its conclusion a map should be drawn "*under the order of the Senate*," and published and given forth to the world with a boundary line upon it not drawn through the Canal de Haro, but through the channel which I maintain is the channel of the treaty, and is the one which was contemplated by the British government at the time of its conclusion. I have further in my possession an attested tracing of "A diagram of a portion of Oregon Territory," dated Surveyor General's Office, Oregon City, October 21, 1852, and signed John B. Preston, Surveyor General, in which the boundary line between the British possessions and those of the United States is also carried through the channel lying adjacent to the continent or through the Rosario Strait. Both these documents, being official and published by high authority, afford, I think, strong evidence that the Canal de Haro has not always been contemplated and received in the United States as the channel of the treaty.

9. In further illustration of my proposition that the Rosario Strait is the channel of the treaty, I would observe that, apart from the very peculiar wording of the treaty, in which the greater is separated from the lesser, the continent from the island, it would seem clear that in whatever channel the boundary line commences its southerly course, it should continue "*through the middle of the said channel*," until it reach the Straits of Fuca. Now it has been agreed that the initial point of the boundary line is found in the channel called the Gulf of

Georgia, and the continuance of that channel is, as was deemed by Vancouver, through the Rosario Strait. This is sufficiently proved by local observation, which shows that the principal body of water flows uninterruptedly from the Gulf of Georgia through the Rosario Strait, causing a regularity of current which is not found elsewhere; for the waters flowing through the Canal de Haro are split by the various islands contiguous to it in different directions, causing an irregularity and diversity of current which is not found in the Rosario Strait, and therefore the Canal de Haro cannot be deemed a continuance of the channel of the Gulf of Georgia, but more properly a continuance of the channel between Saturna Island and Vancouver's Island. Putting the question of current aside, I think a glance at the map as to which channel is the continuation of the Gulf of Georgia will sufficiently test the truth of what I assert.

10. Having thus replied to the principal arguments you have advanced in support of the adoption of the Canal de Haro as the channel of the treaty, and having shown you how firmly satisfied I am of the correctness of my opinion as to the Rosario Strait being a channel which in all respects answers to the channel of the treaty, which the Canal de Haro does not, I trust you may, upon reflection, be induced to modify your view that the Canal de Haro is the only channel which, according to the language of the treaty, "separates the continent from Vancouver's Island."

With the highest consideration and esteem, I have the honor to subscribe myself your most obedient and humble servant,

JAMES O. PREVOST,

*Captain H. B. M. Ship Satellite, and H. M. First Commissioner  
for determining the aforesaid Boundary Line.*

ARCHIBALD CAMPBELL, Esq.,

*United States Commissioner for the Northwest Boundary, &c., &c., &c.*

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*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, 49th Parallel, November 18, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant in reply to mine of the 2d instant.

In the communication of my views, made in compliance with your request, I clearly showed from cotemporaneous evidence what was the intention of the framers and ratifiers of the treaty of June 15, 1846, in using the words describing the water-boundary line between the territories of the United States and the British possessions.

Although the language of the treaty alone is sufficiently explicit to my mind, the disagreement between us, in respect to a part of the distance through which the boundary line is to be traced, rendered it, in my opinion, desirable, if not necessary, in order to carry the treaty into effect, that we should arrive at a mutual understanding of the actual intention of the treaty makers, and for that purpose that we should resort to the ordinary mode of interpretation in cases of obscurity or uncertainty. I, therefore, deemed it but an act of frankness to exhibit to you the evidence I had in my possession of the *intention* of the British government in framing the language of the treaty and of the *understanding* of the United States government in adopting it. Considering the character of this evidence, and the weight to which it is entitled, it is difficult for me to comprehend how you could resist the conclusion to which it so clearly led, viz., that "the channel" referred to in the treaty was intended to apply to the Canal de Haro.



With this clear and satisfactory evidence, answering in the fullest manner to the requirements of the rules laid down for ascertaining the true meaning of the language of a treaty, it is pursuing the shadow instead of the substance to confine ourselves to its mere words; and, judging by the course of argument adopted by you in your present communication, I infer that you do not now altogether disagree with me in that opinion. As you seem, however, to attach importance to what you call the *peculiar* wording of the treaty in regard to the relative position of the words, the *continent* and *Vancouver's Island*, I have carefully considered your argument thereon, but cannot perceive its force. The words of the treaty are "the channel which separates the *continent* from *Vancouver's Island*," and, in my opinion, they are placed in their proper position. Nothing could be more natural in tracing and describing the long line of land boundary from the Rocky Mountains westward than for the authors of the treaty to place the continent before Vancouver's Island; and it would be strange if they had done otherwise. Still I do not conceive that a change in the position of the words could make any difference in the meaning of the expression.

The argument you draw from Mr. Benton's speech on this point is the one of all others I should bring forward (if I thought any necessary) to show there was no peculiarity in the wording of the treaty, or, if there were any, that it was in favor of the Canal de Haro; for Mr. Benton, after stating that the first article of the treaty is in the very words he would have used himself if the two governments had allowed him to draw it up, and with the very words of the treaty before him as he spoke, uses the expression, "the channel which separates *Vancouver's Island* from the *continent*," as conveying precisely the same meaning as the language of the treaty; for he immediately thereafter declares that this language carries the line through the Channel de Haro, and "gives us" the "cluster of islands" between that channel and the continent. Surely no fair deduction can be drawn from the remarks of Mr. Benton to show that the language of the treaty, in his opinion, required a transposition of the words to carry the boundary line through the Canal de Haro. After using the expression, reversing the order of the words of the treaty, he says, "I am in favor of the first article of the treaty *as it stands*." He certainly would not have said this if, as you assert, he must have thought it required a change in the wording of the treaty to make the language applicable to the Canal de Haro.

Your admission that the "Canal de Haro is undoubtedly the navigable channel which at its position separates Vancouver's Island from the continent," in my opinion is equivalent to the settlement of the question—the continent, according to the well known geographical fact that islands are appurtenant to the main land, embracing as natural appendages to its coast the islands between it and the Canal de Haro. Your argument that Rosario Straits must be the channel which separates the continent from Vancouver's Island would apply with equal force to Vancouver's Island if it were situated as far distant as the Sandwich Islands. For, you say: "It would seem indisputable that where several channels exist between the two (that is, between the continent and Vancouver's Island) that channel which is the most adjacent to the continent must be the channel which *separates the continent* from *any islands* lying off its shores, *however remote those islands may be*." This process of reasoning would elevate an island to a much higher degree of importance than a continent, by making all intermediate islands appendages to it instead of the continent, a doctrine which I am not prepared to admit, nor do I think upon further reflection you will maintain.

You decline to admit the correctness of my conclusion that if the term "southerly" be taken in a strictly technical or nautical sense, the treaty cannot be carried into effect. But I do not understand you as denying the fact that the word "southerly" applies equally to the Straits of Fuca as to the channel which separates the continent from Vancouver's Island. Still, while denying a

liberal construction of that term as far as it may be applicable to the Canal de Haro, you appear to be willing to appeal to the dictates of common sense, or to seek for the intention of the negotiators of the treaty when it applies to the Straits of Fuca. I must respectfully repeat, if the term "southerly," as used in the treaty, is to be construed as you still construe it in relation to the course of the Canal de Haro, the same meaning must be given to it in regard to the course of the Straits of Fuca, for the channel and straits are so connected in the language of the treaty as to be governed by the preceding words "southerly through the middle of." The object of my remarks on that subject was to prevent the treaty from becoming a nullity, by adopting the natural meaning of the word instead of its strictly technical or nautical sense; but it seems to me not entirely just to apply it in one sense to the Canal de Haro and in another to the Straits of Fuca. I think, therefore, you will be obliged to abandon your objection to the Canal de Haro on the ground that a line cannot be traced through it in a southerly direction. I refer to Mr. Benton's speech for his understanding of the word to confirm my own. In giving his reasons for voting in favor of the treaty he says: "When the line reaches the channel which separates Vancouver's Island from the continent, it proceeds to the middle of the channel, and thence *turning south* through the channel de Haro to the Straits of Fuca, and thence *west* through the middle of that strait to the sea." Here is the true reading of the language of the treaty, and it is in perfect accordance with that contained in my letter of the 2d instant.

In your remarks upon the evidence of Mr. McLane and Mr. Benton, showing which "channel" was intended and proposed by the British government, and understood and accepted by the United States government, you observe that "it has had its full weight" with you; but add, that neither Mr. McLane nor Mr. Benton were the *actual negotiators* of the treaty, and however valuable their opinions may be to the elucidation of obscure points, yet these opinions can in no way alter the *actual wording* and *terms* of the treaty.

I am not aware that there is any rule in the law governing the interpretation of treaties that would require the evidence of the actual negotiators. What is required in such cases is that which was probably in the thoughts of the author or authors of the treaty. And here I beg to call your attention on that point to the quotations (in my letter of the 2d instant) from Vattel in his article on the interpretation of treaties, by which you will perceive that I have gone much further than is required. I have shown their actual *intentions* at the time the treaty was drawn up, proposed and accepted, and I propose to go a step further and show that this intention and understanding remained unchanged up to the complete ratification of the treaty by both governments.

Although Mr. McLane and Mr. Benton were not the signers of the treaty, both of them had that official connection with the negotiation that gives their evidence equal weight with that of the signers themselves, and in the absence of evidence from the latter it must be regarded as indisputable. Nothing short of positive contradictory testimony from equally reliable authority can invalidate it.

I will, however, show you clearly the understanding of Mr. Buchanan, the Secretary of State, one of the negotiators and signers of the treaty. Immediately upon the receipt of Mr. McLane's letter of the 18th of May, stating the *substance* of the *proposition* that was to be made by Lord Aberdeen, a conference was held in the State Department between Mr. Buchanan and Mr. Pakenham. The protocol of this proceeding accompanied the President's message to the Senate asking their advice as to the acceptance of the proposition. It is as follows:

A conference was held at the Department of State on the 6th of June, 1846, between the Hon. James Buchanan, Secretary of State, the American plenipotentiary, and the Right Honorable Richard Pakenham, the British plenipotentiary, when the negotiation respecting



the Oregon territory was resumed. The British plenipotentiary made a verbal explanation of the motives which had induced her Majesty's government to *instruct* him to make *another proposition* to the government of the United States for the solution of these long-existing difficulties. The Secretary of State expressed his satisfaction with the friendly motives which had animated the British government in this endeavor. Whereupon the British plenipotentiary *submitted* to the Secretary of State the draught of a convention, (marked A,) setting forth the *terms* which he had been *instructed* to propose to the government of the United States for the settlement of the Oregon question.

The draught of the convention is in the same words as the ratified treaty. The instructions of Lord Aberdeen and Mr. McLane's letter to Mr. Buchanan, stating the nature of the proposition to be submitted for the settlement of the Oregon question, were despatched to the United States by the same steamer the day after their conference, and the letter was received in Washington on the 3d of June. The conference between Mr. Buchanan and Mr. Pakenham was held on the 6th of June. On the same day Mr. Buchanan writes to Mr. McLane as follows :

I transmit to you herewith a copy of the *projet of a convention*, delivered to me by Mr. Pakenham this morning, for the adjustment of the Oregon question, together with a copy of the protocol of the proceeding. This being the regular day for the meeting of the cabinet, the subject was brought before them by the President. The result was a determination on his part to submit the projet to the Senate for their previous advice. This will be done as soon as the proper message can be prepared and the *necessary papers* copied.

The papers necessary to accompany this projet of the treaty were the protocol mentioned above and a copy of Mr. McLane's letter of the 18th of May, containing his statement of the substance of the treaty as communicated to him by Lord Aberdeen. The object of sending this letter to the Senate was to explain to senators the intentions of the British government as to the details of the treaty, that they might be able to give their advice to the President understandingly. And as the letter was copied in the Department of State by direction of Mr. Buchanan to accompany the projet of the treaty, it must be considered as expressing the understanding between himself and Mr. Pakenham; being in harmony with the *proposition* submitted to him by the latter in conformity with the instructions he received from his government. It is, therefore, quite clear that Mr. Buchanan must have understood the language describing the boundary line in the treaty as intending the "Canal de Haro" for "the channel which separates the continent from Vancouver's Island." With the letter of Mr. McLane in his possession, and deeming it necessary that it should accompany the projet of the treaty to the Senate for their information, there cannot be a doubt that Mr. Buchanan and Mr. Pakenham understood the language of the treaty alike.

You state that Mr. McLane, in his report to the Secretary of State, writes that the proposition of the government "most probably will offer substantially as follows," and quotes his language, giving the substance of the first article of the treaty; and add, "Now this is stated to have been the *probable proposition*; it appears strange, if it was the *adopted proposition*, that the simple and unmistakable wording used by Mr. McLane should not have been retained."

Mr. McLane could hardly have used a stronger expression to convey to his government the intentions of Lord Aberdeen, as communicated to him in their "full and free conversation," and "lengthened conference," than the words "most probably," without having actually seen his despatches to Mr. Pakenham. At the date of his letter he most certainly believed that the proposition would be *substantially* as he stated, for he does not pretend to give the *words* of the treaty in his statement of *any* of the articles, but confines himself to its spirit and gives its substance. Having stated this fact in my previous letter, it ought not to appear strange to you that "the simple and unmistakable wording used by Mr. McLane should not have been retained."

With the projet of the treaty and chart before them, Mr. McLane and Lord Aberdeen could not fail to see at a glance that the concise language of the

treaty clearly indicated "the channel which separates the continent from Vancouver's Island." The Gulf of Georgia washing the continent at the northern end of the line; the Canal de Haro, Vancouver's Island, at the southern end, and at its junction with the Straits of Fuca, presented to the eye a continuous channel that unmistakably separated, throughout its whole length, the continent from Vancouver's Island, and about which it might well have been supposed by them (with their full knowledge of the motive that induced this deflection from the forty-ninth parallel) there could be no question. But a glance at the chart of the United States Coast Survey, on a large scale, accurately defining the space through which the boundary line is to be traced, will show much more forcibly how well the language of the treaty was chosen to express in few words the object of the negotiators.

On the assumption that the language used by Mr. McLane to describe the boundary line had been *originally* the words of the proposition, (or projet of the treaty,) and not *retained*, you say that it "would seem rather to show that discussion on the subject had taken place, and that the line of boundary had been *designedly altered*, and the wording of the treaty as it now stands *substituted* to meet the alteration."

I am somewhat at a loss to know between whom you suppose this discussion to have taken place; whether between Mr. McLane and Lord Aberdeen or between Mr. Buchanan and Mr. Pakenham. It could not have been between the former, for it would not appear that there was any opportunity for discussion after their conference and before the departure of their despatches; or if it had been, Mr. McLane would certainly have notified his government of the fact. Nor do I see how any discussion could have taken place between Mr. Buchanan and Mr. Pakenham that could have effected any alteration in the proposition; for it would appear that Mr. Pakenham had neither power to accept nor offer modifications, as will be seen by an extract from Mr. McLane's letter and his own statement in the conference with Mr. Buchanan. Mr. McLane says:

It may be considered certain also in my opinion that the offer now to be made is not to be submitted as an ultimatum, and is not intended as such, though *I have reason to know that Mr. Pakenham will not be authorized to accept or reject any modification* that may be proposed on our part, but that he will in such case be instructed to refer the modification to his government.

From the foregoing extract it will be perceived that Mr. Pakenham had no authority to *accept* any proposed alteration to the treaty, though it is not presumed the proposition for the change you suggest could have been expected from Mr. Buchanan. On the other hand, Mr. Pakenham was not authorized to *propose* any modifications, as has been seen from his conference with Mr. Buchanan, June 6th, in which he submits "the *draught* of a *convention* setting forth the *terms* which he had been *instructed* to propose to the government of the United States for the settlement of the Oregon question," which could not have been otherwise than in conformity with the terms of the proposition communicated by Lord Aberdeen to Mr. McLane. I cannot, therefore, admit that the original proposition was "designedly altered" with the consent of either Mr. Buchanan or Mr. McLane. Nor can I agree with you that the islands you refer to, "barren, rocky and valueless" as they might then have been deemed, would have been conceded as readily as you suppose, after the positive assertions of the President (communicated to Mr. McLane by Mr. Buchanan) that he would not consent to surrender any territory claimed by the United States south of the forty-ninth parallel, with the exception of the southern end of Vancouver's Island. I cannot conceive the motive which could induce any officer of the United States government to surrender a portion of the territory which the line proposed by the British government threw on the American side, when at the same time he knew the proposition was not an *ultimatum*,

*and not intended as such*, as will be seen from the extract of Mr. McLane's letter heretofore quoted. In addition thereto he says :

I do not think there can be much doubt, however, that an impression has been produced here that the Senate would accept the proposition now offered, at least without *any material modification*, and that the President would not take the responsibility of rejecting it without consulting the Senate. If there be any reasonable ground to entertain such an impression, however erroneous, *an offer less objectionable in the first instance, at least, could hardly be expected.*"

And he again says :

Feeling very sure, however, that the present offer is not made or intended as an ultimatum, I think it only reasonable to infer an expectation on the part of those who are offering it, not only that modifications may be suggested, but that they may be reasonably required.

From the foregoing extracts you must perceive that the United States government was not in a position to make concessions, and from the speech of Mr. Benton, which I submitted to your perusal, you will have seen that a portion of the members of the Senate insisted upon modifications, which would have been asked of the British government, if Mr. Pakenham had been authorized to grant them, and were only prevented from doing so by the delay incident to sending to England.

I cannot therefore admit that any such alteration as you suggest could have possibly taken place. Everything connected with the settlement of the Oregon question was at that time deemed important. And no officer of the United States government would have ventured to make such a concession without its being fully understood by all who had any connection with making or ratifying the treaty. Even the reason you suggest for the concession is one which would apply with greater force against the boundary line running through Rosario Straits than through the Canal de Haro ; for Rosario Straits being narrower than the Canal de Haro, the objection to the former applies with greater force than it does to the latter. After much reflection and consideration, I am quite unable to conceive when and where this "designed alteration" could have taken place, and if it be not an entire supposition, I would respectfully ask for further information on the subject, in order that I may regulate my judgment accordingly.

Your opinion that the line of boundary was altered, you say, is strengthened by your "having been officially informed, by high and competent authority, that the channel commonly known in England as the Vancouver Strait—that now called the Rosario Strait—was the channel contemplated by the British government as the channel of the treaty ; and the *mention of a particular channel* by Mr. McLane, and the absence of the *name of that channel* from the treaty, together with the *very peculiar wording* of the treaty, would seem almost conclusively to prove the fact."

I have no means of determining the source from which the high and competent authority you refer to received his information ; but I would respectfully suggest that, after the contemporaneous documentary evidence I have produced, the mere assertion of any person at this time, no matter what his position may be, unless he was immediately concerned in the negotiation of the treaty, can be of little weight. It is quite possible that the British government may have *contemplated* Rosario Straits as the channel ; but I would respectfully submit that they *proposed* the Canal de Haro, and that the United States government *accepted* that proposition.

In your endeavor to show that the Canal de Haro could not have been the only channel regarded in the United States as the channel of the treaty, both at the time of its ratification and afterwards, you state that you have in your possession a "Map of Oregon and Upper California, published at Washington City in 1848, drawn by Charles Preuss, '*under the order of the Senate of the United States*,' in which the boundary line between the British possessions and those of the United States, distinctly lithographed and colored, is carried down through the channel now called Rosario Straits," &c. You further say that, if

the "Canal de Haro was the only channel contemplated by the Senate of the United States as the channel of the treaty, it seems remarkable that within a short period of its conclusion a map should be 'drawn under the order of the Senate,' and published and given forth to the world with a boundary line upon it, not drawn through the Canal de Haro," but through Rosario Straits.

I have also in my possession a copy of the same map, and, as its title declares, it is a "Map of Oregon and Upper California, from the surveys of John Charles Frémont and other authorities," and is accompanied by a geographical memoir, which was also published by the Senate at the same time. By an examination of that memoir, it will be seen that the accurate delineation of the boundary formed no part of the object for which the map was directed. The boundary line north, as well as south, on that map was drawn merely to show the extent of the country described in the memoir.

By a comparison of the Mexican or southern boundary on the same map with the true line as defined by the commissioners and surveyors appointed under the treaty, an error quite as remarkable will be found on that line as on the northwestern boundary, and one which, upon examination, must completely dispel any impressions that may have been made upon your mind that it has any authenticity, or is of any authority whatever as a *map showing the boundary between the British possessions and the United States*. The best evidence of this is to be found in the fact that, after its publication, the Mexican boundary line was surveyed and marked by the United States government without reference to Mr. Preuss's map, and the true line was found to be *totally different* from that laid down by Mr. Preuss.

By examining carefully the lithographed line on this map, drawn from the forty-ninth parallel to the Straits of Fuca, it will be seen that, instead of running through the middle of Rosario Straits, as you suppose, it runs directly against Sinclair's Island on the north, and Cypress Island on the south; leaving a space of over five miles without any boundary line; but if this should be joined, it would bisect the two islands. It also runs tangent to Smith's Island on the eastern side—an island upon which it is the intention of the United States government to build a light-house, and for which an appropriation has been made.

I point out the inaccuracies of this map, so far as relates to the boundary line, without any intention of depreciating it in any respect, but simply in order to show you that it is not considered authority for the boundary lines drawn upon it, and that it was not intended to be so considered. I could exonerate the Senate from censure for publishing the map and giving it forth to the world with their apparent sanction, but I presume it will hardly be necessary for me to do so on this occasion.

I have never seen the diagram, alluded to by you, of a portion of Oregon Territory, "dated Surveyor General's Office, Oregon City, October 21, 1852, and signed by John B. Preston, Surveyor General," and having the boundary line drawn through Rosario Straits; but no authority can be attached to it, as it formed no part of the duties of the surveyor general's office to determine the boundary line between the United States and British possessions. I am, however, informed, by credible authority, that Mr. Preston was led into the error by seeing the map of Mr. Preuss. Had he seen the "Map of Vancouver's Island and the Adjacent Coasts, compiled from the surveys of Vancouver, Kellet, Simson, Galiano, and Valdes, &c., &c., &c., by J. Arrowsmith, 10 Soho square, London, published April 11, 1849"—more recent than that of Preuss—he no doubt would have drawn the line through the Canal de Haro; for as that purports to be a map especially of "Vancouver's Island and the coasts adjacent," no doubt could have been entertained that much care was taken to make it accurately conform to the terms of the treaty. On that map, on a large scale, all the islands east of the Canal de Haro are colored carefully



with the same tint as that given to the territory to which they geographically and conventionally pertain, viz., that of the United States.

The maps of Preuss and Preston are of no authority, as far as the boundary line is concerned. They therefore afford no evidence of the true channel of the treaty. And since its ratification, I am not aware of any authority having been given either by the United States or British government for surveying and mapping it definitively until the appointment of the present commission.

"In further illustration" of your proposition that the Rosario Strait is the channel of the treaty," you say that "it would seem to be clear that, in whatever channel the boundary line commences its southerly course, it should continue through the middle of the said channel until it reaches the Straits of Fuca," and add that "it has been agreed that the initial point of the boundary line is found in the channel called the Gulf of Georgia, and the continuance of that channel is, as was deemed by Vancouver, through the Rosario Strait."

I fear there is some misunderstanding in regard to an initial point. I certainly am not aware of having agreed to any, though I do not deem it a matter of any moment whether the starting point of the line be at the forty-ninth parallel or the Pacific Ocean. But even granting that the line starts at the forty-ninth parallel, and is traced through the middle of the Gulf of Georgia, I do not admit that it must necessarily be continued through Rosario Straits, even if Vancouver's chart be referred to. You say Vancouver considered Rosario Strait a continuation of the Gulf of Georgia, and that it was included in that name. By an examination of the chart it will be perceived that the name as lettered passes directly through and over the cluster of islands between the Canal de Haro and the straits now called Rosario Straits, and that it was intended by Vancouver to apply the name of *Gulf of Georgia* to *all* the waters between Vancouver's island and the continent as far south as Fuca's Straits, (if the lettering on his chart is to be considered as any guide,) and applies equally to every other channel in the vicinity. But whatever name may have been given to the waters broken up by the islands, they are all continuations of the waters proceeding from the *Straits of Fuca* or *Gulf of Georgia*, and all perfectly on an equality in that respect. The Canal de Haro having the largest volume of water passing through it, it is the *main channel* among them, and therefore more particularly entitled to be considered as *the* continuation or connection of the two channels with which all are directly or indirectly connected. And here I beg to say in regard to the relative merits of the two channels, I must again refer you to the extract from Captain Alden's report on that subject in my letter of the 2d instant, in which he pronounces the Canal de Haro to be the widest, deepest and best channel, and in almost every respect the better of the two.

Upon your supposition that the Canal de Haro had originally been named in the projet of the treaty, and that "the line of boundary through it had been *designedly altered*, and the wording of the treaty as it now stands *substituted* to meet the alteration," you found an argument to prove that Rosario Straits was "the channel" intended as the substitute for the Canal de Haro as follows: "The channel through which the boundary line was to pass *not being designated by name*, inasmuch as it *had no name* on the map which was, I have not the least doubt, used by the British government at the time, viz: that of Vancouver, where the channel, now called the Rosario Strait, is shown, *as in fact it really is*, as a continuation of the waters now called the Gulf of Georgia, the *whole being named* by Vancouver the *Gulf of Georgia*."

It has been acknowledged that the Rosario Straits, in common with the other channels, is a continuation of the Gulf of Georgia, and that the general name of the "Gulf of Georgia" was given by Vancouver to embrace all the waters between the continent and Vancouver's Island as far south as the Straits of Fuca. But I have shown from his chart that Vancouver did not particularly apply it to the channel called Rosario Straits. If, however, the British government so

understood it, and the "Canal de Haro" was dropped from the original projet of the treaty, as you suppose, for the purpose of substituting what was then considered a part of the Gulf of Georgia, it is strange that "the Gulf of Georgia" was not inserted instead of the present language, so inapplicable to Rosario Straits. In this argument, if I understand it correctly, Rosario Straits is claimed as the channel for two very different reasons—one because it had a name, the other because it had no name. If the Canal de Haro were mentioned in the original projet and afterwards expunged to give place to a channel without a name, care should have been taken so to describe it that no other channel, either with or without a name, could be found answering to the language of the treaty.

In a previous part of this communication I proposed to show that the intention and understanding of the British and United States governments in relation to the water boundary remained unchanged from the conference between Lord Aberdeen and Mr. McLane until the complete and final ratification of the treaty by the two governments. After the message was prepared and the necessary papers copied at the State Department, the President transmitted them to the Senate on the 10th of June for their advice as to his acceptance or rejection of the projet of the treaty submitted by Mr. Pakenham in his conference with Mr. Buchanan. The motive that induced the President to take the unusual course of asking the previous advice of the Senate arose from the prominent part taken by the Senate in the discussions of the Oregon question, and the importance the British government attached to the opinions and action of that body, as will have been seen by the extracts from Mr. McLane's letter heretofore quoted. As I am desirous of showing you the exact position the Senate occupied in relation to the negotiation and ratification of the treaty, I must make one more extract from Mr. McLane's letter on that subject:

It is not to be disguised, (he says,) that since the President's annual message and the public discussion that has subsequently taken place in the Senate, it will be difficult, if not impossible, to conduct the negotiation in its future stages, without reference to the opinion of senators, or free from speculation as to the degree of control they may exercise over the result. Whatever therefore might be prudent and regular in the ordinary course of things, I think it of the utmost importance upon the present occasion, if the President should think proper to propose any modification of the offer to be made by Mr. Pakenham, that the modification should be understood as possessing the concurrence of the co-ordinate branch of the treaty-making power.

After several days' debate the Senate advised the President "to accept the proposal of the British government for a convention to settle boundaries, &c., between the United States and Great Britain west of the Rocky or Stony Mountains."

In accordance with that advice the President accepted the proposal, and on the 16th of June laid before the Senate, for their "consideration and with a view to its ratification," "the convention concluded and signed by the Secretary of State on the part of the United States, and the envoy extraordinary and minister plenipotentiary of her Britannic Majesty on the part of Great Britain."

Upon its receipt a debate ensued which resulted in a resolution, "that the President be requested to communicate to the Senate a copy of all the correspondence which has taken place between this (the United States) government and that of Great Britain relative to the Oregon treaty, together with the despatches and instructions forwarded to our minister, Mr. McLane, and a full and complete copy of his despatches and communications to this government on the same subject not heretofore communicated to the Senate."

The scope of the resolution exhibits the deep interest manifested by the Senate in every step of the negotiation, and shows clearly that no detail connected therewith was deemed unworthy of their consideration.

On the 18th of June the Senate gave its "constitutional advice and consent to the treaty," and the President ratified it. On the 22d Mr. Buchanan transmitted to Mr. McLane at London the treaty ratified by the President and Senate,

with "special power" authorizing him "to exchange the ratifications with such person as may be duly empowered for that purpose on the part of the British government." The ratifications were exchanged by Mr. McLane and Lord Palmerston.

From the incipient step taken by Lord Aberdeen, in making the proposition to the United States government for a settlement of the Oregon question, and through all the subsequent stages in the progress of the treaty to its complete ratification, we look in vain for any evidence that the original proposition communicated to Mr. McLane was ever altered. I have shown that Mr. Buchanan and Mr. Pakenham must have understood it alike.

The President, from whom emanated all the instructions in relation to the negotiation, in transmitting the proposal of the British government to the Senate for their advice, accompanied it by Mr. McLane's letter furnished for their information and consideration in giving that advice. Therefore there can be no doubt of his understanding of the language of the treaty. It cannot for a moment be supposed that such grave, deliberate, and unusual action would have been taken, without the most perfect understanding on his part of the meaning of the document he laid before them. The letter of Mr. McLane accompanying his message conveyed that meaning.

The Senate upon this extraordinary occasion gave their advice to accept the proposition. And upon what did they found their advice? Upon the words of the projet of the treaty, and the explanation of the same more in detail by Mr. McLane. They believed them to be in perfect harmony. A perusal of Mr. Benton's speech upon the ratification of the treaty will show how exactly he, as one of the co-ordinate branch of the treaty-making power, understood the proposal of the British government to agree with Mr. McLane's statement of it, when he advised the President to accept it. In that speech he says:

In my high and *responsible* character of constitutional adviser to the President, I gave my opinion in favor of accepting the propositions which constitute the treaty, and advised its ratification. The first article is in the very terms which I would have used, and that article constitutes the treaty. With me it is the treaty. The remaining three articles are subordinate and incidental, and only intended to facilitate the execution of the first one. The great question was that of boundary.

The first article being the treaty in Mr. Benton's opinion, he must have made himself well acquainted with its full meaning. The leading position he occupied on the Oregon question is well known. In expounding the treaty to his colleagues, he describes the boundary line, and designates the "Canal de Haro" as "the channel" through which the line is to pass. He had before him the treaty and the letter of Mr. McLane, and he gives his advice and consent to the ratification of the treaty "with a mind clear of doubt," for he says, "the great question of the boundary is settled."

The injunction of secrecy was removed from the executive proceedings, correspondence, and documents, relating to Oregon, and they became a portion of the public documents of the Senate. As a documentary history of the negotiation, published to the world, by order of the Senate, upon the conclusion of the treaty, they are entitled to all the credit which is due to undisputed contemporaneous evidence. Taken in connection with the speech of Mr. Benton, giving *fully* his views of the meaning of every article of the treaty, it forms a chain of evidence proving conclusively that the line of boundary between the United States and the British possessions, after it deflects from the forty-ninth parallel, was intended by the language of the treaty to run through the middle of the Gulf of Georgia and the Canal de Haro, and thence through the middle of Fuca's Straits to the Pacific Ocean.

From the foregoing communication you will perceive that I have given the most careful consideration and study to the additional arguments you have advanced, and the evidence you have adduced, to prove Rosario Straits to be a channel which in every respect answers to the language of the treaty; but I



must frankly, though with the most respectful deference to your opinion, acknowledge that they have failed to convince me. I have, on the other hand, endeavored to rebut your arguments against my views in regard to the channel, which I need hardly say have only been strengthened by reflection since my letter to you of the 2d instant.

With the most perfect respect and esteem I beg to subscribe myself, your most obedient and humble servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for  
determining the Northwest Boundary Line.*

JAMES C. PREVOST, Esq.,

*British Commissioner Northwest Boundary, &c., &c., &c.*

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*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, Gulf of Georgia, November 24, 1857.*

SIR : I have the honor to acknowledge the receipt of your letter of the 18th instant, in reply to mine of the 9th instant, upon the subject of the interpretation to be given to part of the first article of the treaty between Great Britain and the United States, of 15th June, 1846.

2. I have given to your said letter the most careful consideration, but it appears to me for the most part only a recapitulation at greater length of the testimony you have already adduced in support of your views of "the channel which separates the continent from Vancouver's Island," and to which I have already replied in a previous communication; nevertheless, there are one or two points you have commented upon, that I deem it but right to notice.

3. You state that my "admission that the Canal de Haro is undoubtedly the navigable channel which at its position separates Vancouver's Island from the continent," is, in your opinion, "equivalent to the settlement of the question; the continent—according to the well-known geographical fact that islands are appurtenant to the main land—embracing, as natural appendages to its coasts, the islands between it and the Canal de Haro." I would respectfully observe to you that in the first article of the treaty, the direction of the water boundary line is pointed out by reference to natural objects, which are distinctly denominated, and I must conceive, with all deference to your adverse opinion, that those objects must be viewed according to their natural signification; and that the continent means the *continent* in as strict a sense as the island means the *island*, and neither literally nor geographically can an island be deemed the continent, as you would seem to imply. When terms are unmistakable, and can be interpreted closely and literally as the words of the treaty in this case can, that seems to me to be no strong argument which requires for its support such a latitude of meaning as you would claim in your interpretation of the word continent. I maintain that the continent as well as the island must be regarded according to its natural signification, and according to its natural position; and when two or more channels exist between a continent and a particular island, the argument appears to me irresistible that the channel contiguous to the continent is the channel separating the continent from the island, while the channel contiguous to the island is the channel separating the island from the continent. It matters not what may lie between the two to form the channels, whether it be an archipelago of islands, or a group of sunken rocks. It also seems to me a fact equally irresistible, that in such case a transposition of words must convey an opposite meaning, and I must acknowledge myself at a loss to conceive how you can maintain that they do not. In the case I have put, the channels

have surely some means of being described apart from any nominal designation, and I see no more direct or positive way than that I have defined. Therefore, while the words of the treaty pointedly provide that the boundary line is to run through the channel which separates the *continent from the island*, I can never agree that the Canal de Haro, as the channel separating the *island* from the *continent*, can be the channel which separates the continent from the island, and consequently the channel of the treaty. "This process of reasoning" in no way affects either the "importance" of the island or the "importance" of the continent; it is but placing natural objects in their natural position, and dealing with them accordingly.

4. Your principal arguments in favor of the Canal de Arro being the channel of the treaty are based upon the correspondence of Mr. McLane, and upon the speech of Mr. Benton, and from the former you draw an inference that the Canal de Haro was the channel *proposed* by the British government. This inference I cannot adopt. I do not perceive in anything that has been produced any evidence that the Canal de Arro was proposed by the British government. The mention of the Canal de Arro by Mr. McLane in his letter of 18th May, 1846, cannot surely be cited as a proof that this channel was so proposed. He reports the result of a conversation, and mentions what would *probably* be offered. The fact that the Canal de Arro was *not* offered, is, I think, sufficiently established in the absence of the name, both from the draught of the convention presented on the 6th of June, 1846, by Mr. Pakenham, to which you allude, and from the treaty itself. I can never suppose that the British government in retaining Vancouver's Island would consent to give up the channel which was best known in England at the time the treaty was negotiated, and in place thereof adopt a channel which, at that time, was scarcely, if at all, known by them to be navigable. The channel now called the Rosario Strait was known in England as the navigable channel of the day, it was the channel through which Vancouver sailed, and it was the channel used by the vessels of the Hudson's Bay Company since 1825 in their communications with the northern parts of the continent or island, and I think you will agree with me in deeming it, under these circumstances, scarcely possible that the British government should knowingly forego the treaty right of navigating the channel thus generally used. Even in the present day, when the Canal de Arro is comparatively well known, I unhesitatingly assert that sailing vessels, proceeding from the southern ports of Vancouver's Island to the northern settlements, would scarcely ever use the Canal de Arro in preference to the Rosario Strait, and I should be surprised if Captain Alden, of the United States navy and Coast Survey, whose remarks you have quoted, did not agree with me in this opinion, for in none of his observations that you have adduced do I find any opinion that the Canal de Arro is preferable to the Rosario Strait for *sailing vessels*.

The high and official authority to whom I alluded in my letter of the 9th instant, as the source of my information that the Vancouver (or Rosario) Strait was the channel contemplated by the British government, is her Majesty's present Secretary of State for foreign affairs, the Earl of Clarendon, and I cannot presume that he would intimate to me in writing, as he has done, that such was the case unless he had substantial grounds for doing so. That the United States government may have contemplated the Canal de Arro as the channel of the treaty I do not attempt to dispute, but I firmly maintain that the British government contemplated the channel through which Vancouver passed—that now known as the Rosario Strait. I cannot, however, but deem that all this is, to a certain extent, extraneous matter. I must again respectfully submit to you that neither the correspondence of Mr. McLane nor the speech of Mr. Benton can in any way alter the actual wording and terms of the treaty. Their opinion, however valuable it may be, cannot divert the words of the treaty to an interpretation which, I conscientiously maintain, they literally will not admit. To my mind the word-

ing is peculiarly explicit, and while firmly holding this opinion it does appear to me an undoubted pursuit of the "shadow" to enter into the discussion of extrinsic documents and evidence, when we can so readily grasp the "substance" by a strict adherence to the terms of the treaty. As you have quoted the opinion of Vattel regarding the interpretation of treaties in cases of obscurity, I beg you will permit me to request your attention to his opinion in cases where no obscurity exists. He says, "the first general maxim of interpretation is that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and precise terms; when its meaning is evident and leads to no absurd conclusion, there can be no reason for refusing to admit the meaning which such deed naturally presents. To go elsewhere in search of conjectures in order to restrict or extend it is but an attempt to elude it. If this dangerous method," he says, "be once admitted, there will be no deed which it will not render useless. However luminous each clause may be, however clear and precise the terms in which the deed is couched, all this will be of no avail if it be allowed to go in quest of extraneous arguments to prove that it is not to be understood in the sense which it naturally presents."

I maintain that the treaty in the matter of the channel separating the continent from Vancouver's island is worded in "clear and precise terms," and, therefore, I cannot admit any evidence on this subject to weigh with me that would lead to an interpretation that the precise terms of the treaty will not admit.

5. You state that "with the projet of the treaty and the chart before them, Mr. McLane and Lord Aberdeen could not fail to see at a glance that the concise language of the treaty clearly indicated the channel which separates the continent from Vancouver's Island. The Gulf of Georgia washing the continent at the northern end of the line, the Canal de Haro, Vancouver's Island at the southern end, and at its junction with the Straits of Fuca, presented to the eye a continuous channel that unmistakably separated throughout its whole length the continent from Vancouver's Island;" and, further, that "a glance at the chart of the United States Coast Survey on a large scale, accurately defining the space through which the boundary line is to be traced, will show much more forcibly how well the language of the treaty was chosen to express in few words the object of the negotiators." If the western shore of the island of San Juan were the shore of the continent, or if no navigable channel existed between the Canal de Haro and the continent, I could agree with you in the conclusion at which you arrive. But as the western shore of the island of San Juan is not the shore of the continent, and as there is *another navigable channel*, situated *more adjacent to the continent*, the existence of which your conclusion would ignore, I must respectfully submit that your conclusion can hardly be a correct one. I would ask, in what relation does the Rosario Strait stand with regard to the continent? The mode of reasoning you have here adopted would lead to the direct inference either that no other channel existed than the Canal de Haro, or if any other channel did exist, that it had neither an entrance to it from the Gulf of Georgia, nor an exit from it to the Straits of Fuca. I would observe that the maps in use at the time the treaty was negotiated were on a very small scale, and, with every deference to your opinion, I must maintain that a glance at *them* will show a "*continuous channel*" from the Gulf of Georgia to the Straits of Fuca to be through the channel now called the Rosario Strait, rather than through the Canal de Haro. On Vancouver's map, which is no doubt one of those used at the time, the "continuous channel" is very apparent, for the track of his ship is distinctly traced through the channel now called the Rosario Strait. But any map, whether on a large or a small scale, will, I conceive, clearly exhibit the Rosario Strait as an uninterrupted channel from the Gulf of Georgia to the Straits of Fuca, while to follow the course from the middle of the Gulf of Georgia to the Canal de Haro, it becomes necessary to proceed nearly at right angles; and, as I have already stated, local experience and observation of the currents

will show that the Rosario Strait is a direct continuation of the Gulf of Georgia, while the Canal de Haro is more properly a continuation of the channel between Saturna Island and Vancouver's Island.

6. You comment upon my reply to your remarks with regard to the term "southerly," and you observe that it is "not entirely just" to apply the term strictly in one case and not in another. I must therefore repeat that I conceive when the words of a treaty *can* be carried out in their strict and literal sense, there can be no question as to their interpretation; when they *cannot* be so carried out, the evident intention of the treaty should be followed. In my former communication I did not refer to Vattel upon this head, for I considered it superfluous, and only unnecessarily adding to the length of my letter; but as you again notice it, and denominate my view as "not entirely just," I must request your attention to paragraph No. 281, book 2, chap. 17, in which Vattel declares that it is not necessary to give a term the same sense everywhere in the same deed. He says:

*If any one of those expressions which are susceptible of different significations occurs more than once in the same piece, we cannot make it a rule to take it everywhere in the same signification.*

In the following paragraph he says:

*Every interpretation that leads to an absurdity ought to be rejected; or, in other words, we should not give to any piece a meaning from which any absurd consequences would follow, but must interpret it in such a manner as to avoid absurdity.*

Now the boundary line can be carried in closer adherence to a "southerly" direction through the Rosario Strait than it can if taken through the Canal de Haro, and for this reason I argued that, so far as this particular was concerned, the Rosario Strait should be adopted in preference to the Canal de Haro; but the boundary line *cannot* be carried in a "southerly" direction through the Straits of Fuca to the Pacific Ocean, and here is a trifling obscurity. It is, however, unnecessary to go beyond the treaty itself for an interpretation. Two points are named, the Pacific Ocean and the Straits of Fuca, and the former is to be reached through the latter; and as there is no doubt as to the position and limits of either, there can be no question as to what was the evident intention of the treaty makers, and I must respectfully submit that such an interpretation, so strictly in accordance with the rules laid down by Vattel, and with the dictates of common sense, can neither be styled as "not entirely just," nor such as would render the treaty "a nullity."

7. With reference to your remarks upon the map drawn by "Charles Preuss, under the order of the Senate of the United States," I must still observe that the map is an official document, published under high authority, and is indisputable evidence that the Canal de Haro could not have been the *only* channel regarded in the United States as the channel of the treaty. The trifling inaccuracies you point out with regard to the line touching Sinclair and Cypress islands, or any other trifling inaccuracies, do not weaken the fact that the line *does not pass through the Canal de Haro*. It is sufficiently clear that it was intended to trace the boundary line through the channel contiguous to the continent, and a glance at the map represents the line as a very natural boundary. I beg you to understand me, however, that I do not bring this map forward as any *authority* for the line of boundary. That authority is to be sought in the treaty alone, but I merely produce this map as a counter evidence to what you have advanced as to the Canal de Haro being the channel of the treaty. Both this map, dated in 1848, and the diagram, to which I before alluded, of a portion of Oregon Territory, drawn in 1852, are official documents, and are, therefore, entitled to some weight. The map to which you refer, drawn by J. Arrowsmith in 1849, is the publication of a private individual, and, therefore, cannot be produced against an official document, even were the boundary line upon it carried

through the Canal de Haro ; but I append hereto the copy of a letter from Mr. Arrowsmith, in which he declares that there were no boundary lines upon his map until 1853, when he copied the line from Mr. Preuss's map. You remark that, had Mr. Preston seen the map of Arrowsmith of 1849, he would no doubt have drawn the line of boundary on the diagram of Oregon Territory as passing through the Canal de Haro. I can scarcely conceive that a government official, in preparing an official document, would seek his information from the publications of a private individual ; although it was very natural that Mr. Arrowsmith, as a private individual, should be guided in his delineation of the boundary line by an official document, published under the order of the Senate. I have Mr. Arrowsmith's map of 1853 in my possession, and will lay it before you should you desire to see it ; but, of course, I do not refer to it as any authority, nor should I have brought forward either it or his letter had you not endeavored to bring his map of 1849 as a document to be placed in opposition to the diagram of Mr. Preston.

8. Having thus endeavored to show you that all the arguments you have advanced can, to my mind, be fully rebutted, and that, therefore, they entirely fail in convincing me that the Canal de Haro can in any way be regarded as the channel of the treaty, I must again repeat my positive conviction that when two or more channels exist between a continent and an island, that channel which is *contiguous to the continent* must be the channel which separates the *continent from the island*, and that, therefore, the Rosario Strait, as being the navigable channel most adjacent to the continent, must be the channel which, at its position, "*separates the continent from Vancouver's Island*," and consequently that it must be the channel through which the boundary line should pass. While my opinion is thus firmly fixed upon the Rosario Strait as the channel of the treaty, your opinion appears no less firmly fixed upon the Canal de Haro ; and, therefore, so long as we both hold to these opinions, the prospect is very remote that we shall ever attain the end for which we were both commissioned. Eleven years have passed since the treaty of the 15th June, 1846, was signed and ratified. At the time of its conclusion the interests of British subjects and of American citizens around this neighborhood were comparatively unimportant, and the settlement of the boundary line between the continent and Vancouver's Island was not urgently required ; but now, with the greater interests involved, and with the fast increasing population and settlement of the country, it becomes a matter of grave importance that the boundary line should be defined. I am aware that her Majesty's government are desirous to have the line determined, and I have no doubt the government of the United States are equally interested in the matter. It, therefore, I conceive, becomes our positive as well as our conscientious duty to endeavor, in a conciliatory spirit, and by mutual concession, to settle the matter. I will at once frankly state how far I am willing to concede, but *beyond what I now offer I can no further go*. In contemplating your view that all the channels between the continent and Vancouver's Island, from the termination of the Gulf of Georgia to the eastern termination of the Straits of Fuca, are but a continuation of the channel of the Gulf of Georgia, I see a way by which I can in part meet your views without any gross violation of the terms of the treaty. I am willing to regard the space above described *as one channel*, having so many different passages through it, and I will agree to a boundary line being run *through the "middle" of it*, in so far as islands will permit. In making this concession, which is the only approach to your views that I can possibly entertain, I beg it may be distinctly understood that I am induced thereto by no change of opinion on any one point, but that I am alone influenced by the considerations I have above given, and by an earnest desire to prevent a disagreement between us and a reference of the matter to our respective governments ; and I further beg it may also be distinctly understood that I make the present offer without committing either my



government or myself, or any other person, to a renewal of it at any subsequent period, should it not now be accepted; but I feel confident that the liberal and conciliatory spirit which has actuated me on the present occasion will not fail to meet with the same ready response from you that hitherto it has been my privilege and pleasure always to experience in all the intercourse we have had.

With every assurance of my high esteem and deep consideration, I have the honor to subscribe myself, sir, your very obedient and humble servant,

JAMES C. PREVOST,

*Captain of H. B. M. ship Satellite and her Majesty's  
First Commissioner for the before mentioned Boundary.*

ARCHIBALD CAMPBELL, Esq.,

*Commissioner on the part of the United States  
for determining the Northwest Boundary Line.*



*Copy of a letter from Mr. John Arrowsmith to the Secretary of the Hudson's Bay Company, dated 10 Soho square, September 29, 1856.*

SIR: In your letter of the 22d instant, having reference to the boundary line between this country and the United States boundaries in the Gulf of Georgia and De Fuca's Straits, you say that Mr. Isaac I. Stevens, governor of Washington Territory, United States, writing to the governor of Vancouver's Island in May last, states that I published a map of Vancouver's Island and the adjacent coast on the 11th April, 1849, in which the boundary line between the two states is laid down as running through the Canal d'Arro; and that the governor and committee of the Hudson's Bay Company will feel obliged by my informing them if such map was published by me, and if so, by what authority I was guided when thus marking the boundary.

My reply is, that I published the map of Vancouver's Island and the adjacent coast, which was compiled from the surveys of Vancouver, Kellett, Simpson, Galliano, Valdez, &c., &c., on the 11th April, 1849, but that the map at that time contained no boundary lines whatever, and that it continued so until the end of 1852, when I engraved the boundary line as it now exists upon the plate, and I published the map with the date 1853.

The authority which guided me in introducing the engraved boundary line, was a map emanating from the Senate of the United States, dated Washington City, 1848, the full title of which is, "Map of Oregon and Upper California, from the surveys of John Charles Frémont and other authorities, drawn by Charles Preuss, under the order of the Senate of the United States, Washington City, 1848; scale 1:300,000; lith., G. E. Weber & Co., Baltimore."

In transferring the boundary line from the above map to my own plate, the only change which I made in drawing the boundary line was, that instead of carrying it to the islands of Sinclair and Cypress, as marked in the Senate map, I traced it between them, giving the former to the United States government, and the latter to the British government, for the same reason, viz: that it is situated nearest to the shores of Vancouver's island,\* conceiving it to be the common sense simplification of what might possibly, hereafter, cause misunderstanding if left undefined as regards these two islands. These were my authorities and reasons for the boundary line as represented in my map.

When the treaty of 1846 was concluded, neither the British nor the United States government contemplated the extension through the Canal de Haro is quite clear. The United States Senate maps clearly settle this point, so far as that state is concerned.

\* The two islands in question are upon my map placed in the relative position according to the United States nautical survey of 1841.

I have quoted the United States Senate map of 1848, and shown what use I make of it. I will now quote another Senate map, as confirmatory of that of 1848; this latter bears date October 21, 1852. The full title of the map is, "A Diagram of a Portion of Oregon Territory; Surveyor General's Office, Oregon City, October 21, 1852; John B. Preston, Surveyor General; scale ten miles to an inch. Explanations. Townships subdivided, 1852, °. Townships proposed to be surveyed, 1853, +. Townships proposed to be surveyed, 1854, ^."

The above survey, mapped and printed, extends from 42° to 49° north latitude, and from about 120° 10' to about 124° 35' west longitude. It of course takes in the south portion of the Gulf of Georgia, Vancouver's Strait, and De Fuca's Strait. This government map confirms that of 1848, and brings the date down to 1852, 21st October. The line of boundary upon this map precisely corresponds with the former map.

From the line drawn upon both these maps, it is manifest what the United States government meant in 1846 as the continuation of the line of boundary, and it is clear that government held the same view in the latter end of 1852.

I have, &c.,

JOHN ARROWSMITH.

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*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, 49th Parallel, November 28, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of the 24th instant. Although my letter of the 18th instant was, necessarily, to a considerable extent, a recapitulation of the views I had previously expressed, (being a reply to your objections to those views,) it was mainly devoted to the discussion of points and arguments contained in your letter of the 9th instant, not before advanced by you. There was one point in your letter, however, to which I did not reply, but as you reiterate it in your last letter, I will now answer.

You say, "I must again respectfully submit to you that neither the correspondence of Mr. McLane, nor the speech of Mr. Benton, can in any way alter the actual wording and terms of the treaty. Their opinion, however valuable it may be, cannot divert the words of the treaty to an interpretation which I conscientiously maintain they literally will not admit."

You thus characterize the official report of Mr. McLane, and the speech of Mr. Benton, as mere *opinions*. As well might you call the articles of the treaty itself the opinions of those who signed, ratified, exchanged, and proclaimed it, and thus cast a doubt upon its authenticity.

Mr. McLane, in his character of special ambassador to England, reports to his government the result of an official conference held with the secretary of state for foreign affairs, "at the foreign office," and gives the substance of a proposition to be submitted to the United States by the British government. This report was transmitted to the Senate side by side with the proposition of the British government, and was the guide to that body in giving their advice to the President to accept the proposition. It is a report of facts in relation to the proposition, and stands as the record of the intention of the British government, as well as of the understanding of the United States government.

Mr. Benton's speech is an incontrovertible record of his understanding and intention, as one of the treaty-making power, in advising the acceptance of the proposition and consenting to the ratification of the treaty. He does not describe the boundary line as a matter of opinion. He states what he *knows*, not simply what he believes, to be the meaning of the language in regard to it. He had full and free access to those who could enlighten him as to the *inten-*



tion of the two governments, and there is no doubt that he availed himself of his privilege.

As you still maintain that the wording of the treaty is very peculiar, I beg, respectfully, to call your attention to the language of your own government in 1848, in the draught of instructions prepared for the commissioners, who it was then supposed might be appointed to determine the boundary line. A copy of the said draught will be found accompanying Mr. Crampton's letter of January 13, 1848, to which I called your attention in my first letter. Mr. Crampton says :

In bringing this matter under the consideration of the government of the United States, I am directed to present to you a copy of the proposed draught of instructions to the commissioners to be so appointed, which I have the honor herewith to enclose.

After quoting the first article of the treaty, and describing the first operation deemed necessary to be performed by the commissioners, the proposed instructions proceed as follows :

From that point you will carry on the line of boundary along the forty-ninth parallel of latitude to the *middle of the channel between Vancouver's Island and the continent.*

Although, as I have already stated, I attach no special importance to the arrangement of the words, and in this view am supported by high authority, I deem it proper to enforce my opinion by also exhibiting that of the British government in 1848, within two years after the conclusion of the treaty.

I have heretofore quoted from Mr. Crampton's letter several detached passages, to show that the British government, in January, 1848, did not pretend to assert a positive claim to Rosario Straits as the boundary channel, and did not present any *evidence* of the intention of the treaty-makers in relation to it ; and also that they deemed an interpretation of the meaning of the language of the treaty to be necessary. As there are other points in that letter bearing upon the question now before us, as a matter of convenience I herewith annex a copy of so much of it as has special reference to the water boundary line. By a comparison of the views of the British government, as therein expressed, with those advanced at the present time by your government and yourself, it will be seen that there is a striking difference between them.

In 1848, Rosario Straits was not claimed on the ground that there was anything peculiar in the wording of the treaty ; nor was there any claim founded upon the supposition of a "designed alteration" of the original projet of the treaty, by omitting the "Canal de Haro" and substituting its present language.

All that the British government then advanced in behalf of Vancouver or Rosario Strait was their *belief* that it was intended as "the channel" of the treaty, because it was thought to be the only one in that part of the gulf which had been "hitherto surveyed and used," and that therefore it seemed "natural to suppose that the negotiators of the Oregon convention, in employing the word 'channel,' had that particular channel in view." In my letter of the 2d instant, I showed the error of Mr. Crampton's assumption that it was the only channel that had been hitherto "surveyed and used." Besides the Spanish navigators in early times, Captain Wilkes, in 1841, while in command of the Exploring Expedition, surveyed the Canal de Haro, Rosario Straits, and the intermediate islands and channels.

But even while making the effort to induce the United States government to adopt that channel, the British government frankly acknowledged the necessity of an interpretation of the treaty. Mr. Crampton refers to the principal secretary of state for foreign affairs as the official authority from whom he received his instructions. Whether the person then holding the position of principal secretary of state had any connection with the negotiation of the treaty I am unable to say, but, as it was shortly after the conclusion of the treaty, it is presumed that he must have been, at least, as fully informed upon the subject as any who have succeeded him. And the absence of any evidence then that

the Rosario or Vancouver Straits was intended or proposed, proves clearly that none was in existence. Under these circumstances, it can hardly be expected of me to attach much importance to the intimation of the Earl of Clarendon, unaccompanied by any evidence of the fact, that Rosario Straits was "the channel" contemplated by the British government, or to change my views on your presumption that his intimation was based on substantial grounds.

In opposition to your opinion that the words of the treaty are so peculiarly precise and clear as to point out unmistakably Rosario Straits as "the channel," Mr. Crampton, speaking on the part of his government, says :

But, between the Gulf of Georgia and the Straits of Fuca the line is *less distinctly and accurately defined* by the *verbal description* of the treaty by which it is established, &c.

And here allow me to quote a general maxim from Vattel, which is peculiarly applicable to the position of the British government in relation to their present claim that Rosario Straits was meant as "the channel" of the treaty :

If he who can and ought to have explained himself clearly and plainly has not done it, it is the worse for him; he cannot be allowed to introduce subsequent restrictions which he has not expressed.

He adds :

The equity of this rule is extremely visible, and its necessity is not less evident. There can be no secure conventions, no firm and solid concession, if these might be rendered vain by subsequent limitations that ought to have been mentioned in the piece if they were included in the intentions of the contracting powers.

The proposition or projet of the treaty having been drawn up and submitted by the British government to the United States, the rule excludes, therefore, all claim to Rosario Straits, without the most indisputable proof, of which I have yet to see the first evidence.

Notwithstanding your objection to my argument in favor of the Canal de Haro, as the channel of the treaty, on the ground that the continent embraces the islands adjacent to it as far as the Canal de Haro, I maintain that my view is correct and according to well established principles of international law; for, in order to define a channel, we must know the coasts which bound it. The Canal de Haro on one side is bounded by the coast of Vancouver's Island, on the other by the coast of the nearest islands, which are natural appendages to the continent. For the correctness of this position I would respectfully refer you to Wheaton's Elements of International Law, pp. 233-4, my copy of which is at your disposal.

Your objection to the Canal de Haro, on the ground that there is *another navigable channel situated more adjacent to the continent*, the existence of which, you say, my conclusion in favor of the Canal de Haro would ignore, will apply equally to Rosario Straits. For there are, undoubtedly, channels nearer to the continent than Rosario Straits, viz : Bellingham Channel and the channel between Lummi Island and the main land; the former being the very one through which Mr. Arrowsmith drew the boundary line. I am aware that the other channel is narrow; still, it is navigable, and cannot be objected to on the ground that it is not, and it certainly, as well as Bellingham Channel, is closer to the main land than Rosario Straits; and these two channels combined would possess more completely the characteristics required by you for "the channel" of the treaty than Rosario Straits. In answer, therefore, to your inquiry, "In what relation does the Rosario Strait stand with regard to the continent?" I would respectfully state that, in my opinion, it stands in the same relation to it as the San Juan Channel, or any other channel, between the two just alluded to and the Canal de Haro.

Your quotation from Vattel, that it is not necessary to give a term the same sense everywhere in the same deed, is quite inapplicable to the use of the word "southerly" in the treaty; for that word only occurs *once*, whereas the rule referred to is where expressions which are susceptible of different signification occur "*more than once* in the same piece."

Your further quotation, "that every interpretation that leads to an absurdity ought to be rejected," must, therefore, necessarily apply to the strictly technical meaning you attach to the words.

The "trifling inaccuracies" in the map of Charles Preuss, to which you allude, were not pointed out by me at all with the view of strengthening my position as regards the Canal de Haro, but simply to show that, in drawing *boundary lines*, he did so on his own authority, and was neither guided by the treaty nor the treaty makers. You say you do not bring forward this map "as any authority for the line of boundary," but merely "as a *counter evidence* to what you [I] have advanced as to the Canal de Haro being the channel of the treaty."

You add, both this map, dated in 1848, and the diagram of Surveyor General Preston, drawn in 1852, "are official documents, and are therefore entitled to some weight."

Considering the summary manner in which you have disposed of the evidence of Mr. McLane and Mr. Benton, I am somewhat surprised that you should attach any weight to these maps, particularly after the proof I have given you of their inaccuracy and want of authority in regard to boundary lines. Since, however, you regard them as entitled to some weight, I would respectfully call your attention to the map of the Surveyor General of Washington Territory for 1856, published during the present year by the same authority as the map of Mr. Preston. Upon this map the boundary line is drawn from the forty-ninth parallel through the Gulf of Georgia, the Canal de Haro, and the Straits of Fuca, to the Pacific Ocean. Doubtless the present able surveyor general, Mr. Tilton, has carefully studied the language and terms of the treaty, and has interpreted its meaning therefrom, without any special knowledge of the actual intentions of its authors.

I have read Mr. Arrowsmith's letter to the secretary of the Hudson's Bay Company, appended to your letter, and am struck with his ingenuity in avoiding the direct question put to him as to the authority by which he was guided in marking the boundary line. Mr. Arrowsmith gives carefully the date of the publication of the map, but adds that, at that time, it contained no boundary line whatever, and that it continued without one until 1852, when he engraved the boundary line as it now stands upon the plate, and published it in 1853. He gives, as his authority for introducing the engraved boundary line, the map of Preuss, published in Washington City in 1848. He then states the reasons why he deviated from the line as laid down by Preuss, giving the larger island to Great Britain and the smaller to the United States, for reasons satisfactory to himself. The diagram of Mr. Preston was considered by Mr. Arrowsmith as confirmatory of that of Mr. Preuss, and as showing the views of the United States government down to October, 1852.

I was well aware of the estimation in which Mr. Arrowsmith was held, in England and elsewhere, as an accurate collector, compiler, and publisher of maps; and the inquiry of the Hudson's Bay Company, and the production of his reply at this time, confirms my opinion.

I would now respectfully call your attention to the fact that, in the map of 1849, the boundary line of the forty-ninth parallel is drawn and colored, and, although no boundary *line* is laid down between Vancouver's Island and the territories of the United States, the whole *boundary channel*, from the forty-ninth parallel to the Pacific Ocean, is so distinctly portrayed, by coloring differently the coast of Vancouver's Island and the adjacent coasts of the United States, that it is a mere quibble on his part to say that the map contains "no boundary line whatever." While he carefully avoids giving the authority for marking thus distinctly the boundary channel, he is critically minute in giving his authority for engraving the line in 1852, and his reasons for dividing the islands of Cypress and Sinclair between the two territories. He does not, how-

ever, attempt to explain why he postponed the introduction of the engraved boundary line until 1852, and its publication until 1853. Mr. Preuss's map was published and given forth to the world in June, 1848. Certainly, so eminent a collector of maps as Mr. Arrowsmith could not have failed, before the close of 1852, to obtain possession of a map published in the city of Washington, by order of the United States Senate. If he had it, as it is to be presumed, he evidently regarded it as of no authority until about that period.

It is to be presumed that, when Mr. Arrowsmith receives the map of Surveyor General Tilton for 1856, his original impression as to the channel of the treaty will be confirmed, and that he will restore the boundary channel to his map, as in 1849, with the addition of the line from the forty-ninth parallel to the Pacific Ocean.

If I have not failed entirely in my object, I think you must be satisfied, from the correspondence which has resulted from your letter of the 28th ultimo, that the views I have maintained in regard to the channel are too firmly fixed to admit of my agreeing to any arrangement for defining the boundary line which would divert it from the Canal de Haro. It has been my earnest endeavor to satisfy you of the force and justice of my convictions, by an unreserved exhibition of the evidence upon which I relied to sustain my reading of the treaty. If I have failed in my expectations, the effort has at least given me additional confirmation of the correctness of my views. The evidence I have produced remains uncontroverted and incontrovertible. On the other hand, no argument has been advanced or evidence adduced in favor of Rosario Straits that has not, to my mind, been satisfactorily refuted or invalidated.

I agree with you in the importance of an early determination and settlement of the boundary line, but much as I should regret any delay in consequence of a disagreement between us, I must frankly, but respectfully, decline accepting any proposition which would require me to sacrifice any portion of the territory which I believe the treaty gives to the United States; and in doing so allow me to say that there is not the slightest probability that your government, yourself, or any other person, will ever be called upon for a renewal of the proposition contained in your letter of the 24th instant.

Fully appreciating the liberal and conciliatory spirit which actuates you on the present occasion, I can reciprocate cheerfully your kind expressions in relation to our past intercourse, both personal and official.

With the highest regard and most perfect esteem I have the honor to be, most respectfully and sincerely, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States  
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST,

*First British Commissioner Northwest Boundary Survey, &c.*

*Extract from letter of Mr. Crampton to Mr. Buchanan.*

WASHINGTON, January 13, 1848.

SIR: Mr. Pakenham, in the early part of last year, suggested to Her Majesty's government the expediency of endeavoring to arrive at an early settlement of such matters of detail as are still wanting to a complete and final adjustment of everything connected with the Oregon boundary.

In the propriety of this suggestion Her Majesty's government concur, so far at least as certain portions of the boundary in question are involved; but finding, from the Admiralty and from the Hudson's Bay Company, that some important parts of the space through which the boundary line is to run—namely,

the Gulf of Georgia and Fuca's Straits—are still very imperfectly known, and that further information respecting them was to be shortly expected by means of the reports of the commander of her Majesty's surveying vessels Herald and Pandora, which were engaged during the previous summer in surveying those waters, Her Majesty's government were of opinion that it would be better to postpone any further proceedings respecting the boundary until those reports shall be received.

Her Majesty's government have, however, learned, by further inquiries at the Admiralty, that the survey which was carried on last year in the Straits of Fuca and the Gulf of Georgia by her Majesty's ships Herald and Pandora did not extend beyond the entrance to Hood's Canal on the south and Canal de Haro on the north, and that thus the greater part of the space in the Gulf of Georgia, through which the line of boundary, as provided by the convention of the 15th of June, 1846, is to be carried, remains unexplored.

This being the case, and there being no probability that Her Majesty's government will require, within any reasonable time, that detailed knowledge of those parts which they had been led to expect, there seems to Her Majesty's government to be no reason for any further delay in communicating with the United States government, with a view to the adoption of early measures for laying down such parts of the boundary line as the two governments, on mutual consultation, deem it advisable to determine.

I have accordingly been furnished, by Her Majesty's principal secretary of state for foreign affairs, with such instructions as may be necessary for this purpose. But Her Majesty's government believe that it may be useful that I should first briefly recapitulate what has been done in regard to determining the whole of the boundary which separates the North American territory of Great Britain from that of the United States.

\* \* \* \* \*

From the Lake of the Woods to the Gulf of Georgia the line is described by the treaty of the 15th of June, 1846, as running along the forty-ninth parallel of latitude, and the ascertainment of that parallel on the surface of the ground being an operation of astronomical observation, can be accomplished with as much precision at a future time as at present.

But between the Gulf of Georgia and the Straits of Fuca the line is less distinctly and accurately defined by the verbal description of the treaty by which it is established, and local circumstances render it probable that if this part of the line were not to be precisely determined, the uncertainty as to its course might give rise to disputes between British subjects and citizens of the United States. It appears, therefore, to Her Majesty's government that it would be wise to proceed forthwith to take measures for marking out that portion of the line of boundary.

For this purpose Her Majesty's government are of opinion that it might probably be sufficient that each government should appoint a naval officer of scientific attainments and of conciliatory character, and that those officers should be directed to meet at a specified time and place, and should proceed in concert to lay down the above mentioned portion of the boundary line.

The first operation of these officers would be to determine with accuracy the point at which the forty-ninth parallel of latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument.

From that point they would have to carry on the line along the forty-ninth parallel of latitude to the centre of the channel between Vancouver's Island and the continent, and this point, as it probably cannot be marked out by any object to be permanently fixed on the spot, should be ascertained by the intersection of the cross-bearings of natural or artificial landmarks.

The two officers would then have to carry on the line down the centre of that channel, and down the centre of the Straits of Fuca to the ocean. And



this water-line must, as it would seem, be determined also by a series of points to be ascertained by the intersection of cross-bearings.

But in regard to this portion of the boundary line a preliminary question arises, which turns upon the interpretation of the treaty, rather than upon the result of local observation and survey.

The convention of the 15th June, 1846, declares that the line shall be drawn through the middle of the "*channel*" which separates the continent from Vancouver's Island. And upon this it may be asked what the word "*channel*" was intended to mean.

Generally speaking, the word "*channel*," when employed in treaties, means a deep and navigable channel. In the present case it is believed that only one channel—that, namely, which was laid down by Vancouver in his chart—has in this part of the gulf been hitherto surveyed and used; and it seems natural to suppose that the negotiators of the Oregon convention, in employing the word "*channel*," had that particular channel in view.

If this construction be mutually adopted, no preliminary difficulty will exist, and the commissioners will only have to ascertain the course of the line along the middle of that channel, and along the middle of the Straits of Fuca down to the sea.

It is, indeed, on all accounts, to be wished that this arrangement should be agreed upon by the two governments, because otherwise much time might be wasted in surveying the various intricate channels formed by the numerous islets which lie between Vancouver's Island and the mainland, and some difficulty might arise in deciding which of those channels ought to be adopted for the dividing boundary.

The main channel marked in Vancouver's chart is, indeed, somewhat nearer to the continent than to Vancouver's Island, and its adoption would leave on the British side of the line rather more of those small islets with which that part of the gulf is studded than would remain on the American side. But these islets are of little or no value, and the only large and valuable island belonging to the group—namely, that called Whidbey's—would, of course, belong to the United States.

This question being, as I have already said, one of interpretation rather than of local observation, it ought, in the opinion of her Majesty's government, to be determined before the commissioners go out, which cannot be earlier than the spring of next year.

In bringing this matter under the consideration of the government of the United States, I am directed to present to you a copy of the proposed draught of instructions to the commissioners to be so appointed, which I have the honor herewith to enclose.

I avail myself of this opportunity to renew to you, sir, the assurance of my highest consideration.

JOHN F. CRAMPON.

Hon. JAMES BUCHANAN.

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#### DRAUGHT OF INSTRUCTIONS.

Her Majesty's government and the government of the United States having determined to appoint commissioners for the purpose of marking out that part of the line of boundary between the British and United States possessions in North America which passes through the Gulf of Georgia and Fuca's Straits to the Pacific Ocean, I have to acquaint you, &c., &c., &c.

The first article of the treaty of the 15th of June, 1846, between Great Britain and the United States, provides as follows :

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of her Britannic Majesty and those of the

United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean: *Provided*, however, that the navigation of the whole of said channel and strait south of the forty-ninth parallel of north latitude remain free and open to both parties.

The first operation which, in conjunction with the United States commissioner, you will have to undertake in tracing the above-mentioned boundary line, will be to determine with accuracy the point at which the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument.

From that point you will carry on the line of boundary, along the forty-ninth parallel of north latitude to the middle of the channel between Vancouver's Island and the continent. The whole breadth of the Gulf of Georgia in this part being, as far as is known, navigable, the term "middle of the channel," used in the treaty, may here be assumed to mean the middle of the gulf. But as it is probable that the point which constitutes the middle of the gulf cannot well be marked out by any object to be fixed permanently on the spot, it must be ascertained and fixed by the intersection of the cross-bearings of natural or artificial landmarks. This matter the commissioners will have to settle by mutual agreement; but it will be essential that the point in question should be marked out as accurately as the nature of things will admit.

You will then proceed to carry on the line of boundary from this point down the middle of the Straits of Fuca to the ocean. In tracing and marking out this continuation of the boundary, the water line must probably still be determined by a series of points to be ascertained by the intersection of cross-bearings. In performing this operation it will, of course, be desirable to observe as much accuracy as may be attainable. But, independently of the impossibility of arriving at mathematical precision in such a matter, such precision is the less important because the treaty stipulates that the navigation of the whole of the channel of the Gulf of Georgia and of the Straits of Fuca shall remain free and open to both parties.

That part of the channel of the Gulf of Georgia which lies nearly midway between the forty-eighth and forty-ninth parallels of north latitude appears by Vancouver's chart to be obstructed by numerous islands, which seem to be separated from each other by small and intricate channels, as yet unexplored; it has, therefore, been mutually determined between the governments of Great Britain and the United States, in order to avoid the difficulties which would probably attend the explorations of all those channels, that the line of boundary shall be drawn along the middle of the wide channel to the east of those islands, which is laid down by Vancouver, and marked with soundings as the channel which had been explored and used by the officers under his command. You will find the line thus described traced in red in the copy from Vancouver's chart, hereto annexed.

It must necessarily be left to the discretion of the commissioners to connect this part of the line through Vancouver's channel with the other parts of the line, which, being drawn through portions of the gulf free from islands, must pass exactly half-way between Vancouver's Island and the main; but the slight deviations of the boundary from the accurate midway which may for some short distance be required for this purpose cannot be of any material importance to either party.



*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, Gulf of Georgia, December 1, 1857.*

SIR : I have the honor to acknowledge the receipt of your letter of the 28th ultimo, in which you decline to agree to the proposal I made in my letter of the 24th ultimo with a view to our being able ourselves to determine the water boundary line between the possessions of her Britannic Majesty and those of the United States, as settled in the first article of the treaty of 15th June, 1846.

2. Could I regard the correspondence of Mr. McLane and the speech of Mr. Benton as of greater weight than the treaty itself, I should probably, in the absence of direct contradictory evidence of equal value, respond to your view that the boundary line should pass through the Canal de Haro ; but *taking the treaty alone as my authority*, and with its words plainly and unmistakably before me, I could never conscientiously admit that the Canal de Haro is a channel which intrinsically answers to the channel described in that treaty. In that treaty I find two fixed points named, the continent on one hand and Vancouver's Island on the other, and it is agreed that the boundary line is to run through the middle of the channel separating the former from the latter. In this case, in my opinion, the continent is *de facto the continent*, as much as the island is *de facto the island* ; and holding this view I conceive that no interpretation of the treaty *per se* can admit of the Canal de Haro being regarded as the channel through which the boundary line should pass. It appears to me that the claim to this channel *rests entirely* on the correspondence of Mr. McLane and the speech of Mr. Benton. If upon this ground the Canal de Haro be admitted as the channel of the treaty, with equal justness it might be argued that the line along the forty-ninth parallel should not strike the water at the *forty-ninth parallel*, but that it should *deflect to Birch's Bay*, which is a few miles to the southward ; for Mr. McLane, in his letter of the 18th May, 1846, states that the offer will probably be "to divide the territory by the extension of the line on the parallel of forty-nine to the sea ; *that is to say, to the arm of the sea called Birch's Bay*—thence by the Canal de Haro and Straits of Fuca to the ocean ;" but I find no mention of *Birch's Bay* in the treaty, any more than I do of the *Canal de Haro* ; and as the words of the treaty are as distinct upon the one head as they are upon the other, I cannot admit that they should be departed from, either to carry the boundary line through the Canal de Haro, or to deflect it from the forty-ninth parallel to Birch's Bay. I conceive that the correspondence of Mr. McLane and the speech of Mr. Benton, and the concurrent proceedings in the Senate of the United States, must be viewed in connection with the *whole Oregon question* as agitated at the time, and not merely with reference to the small portion of that question which is comprised in the determination of the line of boundary between the continent and Vancouver's Island. I have received the whole of this evidence with the greatest respect, and I have given to it the most careful and anxious study and reflection, but I cannot admit it as otherwise than *secondary* to the treaty. While upon this point, I would respectfully submit to you that if the treaty was intended by the United States government to accord with the correspondence of Mr. McLane and the speech of Mr. Benton, I conceive that the general maxim you have quoted from Vattel would be more applicable to the United States than to the British government, for if the former intended that the Canal de Haro should be the channel through which the boundary line was to pass, they should have taken care that it was so expressed "clearly and plainly" in the treaty. That it was never either the proposition or in the contemplation of the British government, every further reflection I give to the subject only the more firmly convinces me.

3. Notwithstanding the construction you are pleased to put upon the quotation I used from Vattel to show that it was not necessary to give a term every-

where the same signification in the same deed, I must, with the utmost deference, still maintain that it is strictly to the point for which I quoted it; and I think further reflection on your part will show you that the objection because the term occurs *only* "once," whereas the rule applies to words which "occur *more than once*," is but a mere play upon words; the whole spirit of the paragraph in Vattel being so evident. The word "southerly," in reference to which the quotation was made, although only *once printed*, is *applied twice*, and, therefore, is in the same category as if it were used twice; for although the actual words of the treaty are "and thence southerly, through the middle of the said channel and of Fuca's Straits to the Pacific Ocean," yet you would apply the words as if they were written, and thence southerly through the middle of the said channel, *and thence southerly through the middle* of Fuca's Straits to the Pacific Ocean. Although I do not for one moment suppose that the word southerly was intended by the treaty-makers to apply to Fuca's Straits at all, yet you have thought fit to so interpret it, and I do not dispute that, viewing the construction of the passage in which it occurs in a strictly grammatical sense, such an interpretation may be given to it. The further quotation I used from Vattel is also, I conceive, strictly applicable; for no "absurdity" follows the strict use of the term "southerly" in connection with Rosario Strait, although it does if the term be similarly used in reference to the boundary line reaching the Pacific Ocean through the Straits of Fuca.

4. In your letter of the 18th ultimo, in alluding to a continuous channel from the Gulf of Georgia to the Straits of Fuca, you state, "but whatever name may have been given to the waters broken up by the islands" (between the continent and Vancouver's Island,) "*they are all continuations* of the waters proceeding from the Straits of Fuca or Gulf of Georgia, and *are all perfectly on an equality* in that respect;" and again, "it has been acknowledged that Rosario Strait, *in common with the other channels, is a continuation of the Gulf of Georgia.*" After stating this as your conviction and opinion it is difficult for me to conceive how you can reconcile the claim to trace the boundary line *through the middle* of the *Canal de Haro* with a strict adherence to the terms of the treaty, "taking the words in the most literal sense." Surely, if all the channels between the continent and Vancouver's Island, from the southern termination of the Gulf of Georgia to the eastern termination of the Straits of Fuca, are a continuation of the channel called the Gulf of Georgia, it must necessarily follow that they are collectively *part of that channel*, and consequently the "*said channel*" of the treaty, through the "*middle*" of *which* the line of boundary should be carried to accord with the terms of the treaty. Although I do not admit the correctness of your view with regard to *all the channels* in the position before described forming a continuation of the channel of the Gulf of Georgia, yet it was this statement of your view that induced me to make the proposition I did, with the sincere hope that we might ourselves come to an arrangement of the matter; and when I reflected upon this statement of yours, and when I voluntarily offered to recede from what I firmly and honestly believed was not only the intention of the British government in employing the words used in the first article of the treaty, but also the true and literal interpretation of the words themselves; and when I offered to abandon what I most conscientiously and candidly conceived was the better claim of the two, solely in order that the matter might be settled at once and by ourselves, I think it was no unreasonable hope to indulge and no over-confident expectation to entertain that I should meet with the most ready response from you. That it has not been so, I can now only regret; and it is but for me now to propose that a conference be held whenever it may be convenient to you, in order that it may be formally recorded that we are unable to agree as to the direction of the boundary line, and that

you decline to accede to my proposition for an amicable compromise, and that we therefore decide upon a reference of the whole matter to our respective governments.

With the utmost consideration and esteem, I beg to subscribe myself, sir, your most obedient, humble servant,

JAMES C. PREVOST,

*Captain H. B. M. ship Satellite and Her Majesty's  
First Commissioner for determining the aforesaid Boundary.*

ARCHIBALD CAMPBELL, Esq.,

*U. S. Commissioner Northwest Boundary, &c., &c., &c.*

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*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,

*Camp Simiahmoo, 49th Parallel, December 2, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of the first instant. In my previous letters I have distinctly stated that the Canal de Haro, in my opinion, is the channel intended by the treaty, taking it "in the most literal sense consistent with its execution," and I have given my reasons therefor. In like manner you have asserted that Rosario Straits is "the channel" of the treaty, and given the grounds upon which your opinion is based.

Finding, however, that we could not agree by confining ourselves to the mere words of the treaty, I laid before you contemporaneous evidence of the highest authority and most undoubted authenticity, in hopes that it would aid in settling the disputed question and enable us to execute our instructions by carrying the treaty into effect. You did not decline to consider this evidence, but attempted to degrade its character by designating it as mere opinions and to destroy its force by the production of what you were pleased to call "*counter evidence*." But when you find its facts to be incontrovertible and the counter evidence entitled to no credit, you again intrench yourself behind the mere words of the treaty, and refuse to "admit any evidence whatever on the subject to weigh with" you "that would *lead* to an interpretation that the *precise terms* of the treaty will not admit."

I also called your attention to the views of your own government in 1848, within two years after the conclusion of the treaty, to prove that there was no evidence in existence that Rosario Straits was ever intended as "the channel" of the treaty. With such evidence in favor of the Canal de Haro, and against the Rosario Strait, I think I had good reason to expect an acknowledgment on your part that you were mistaken in the views you first entertained.

You now say it appears to you that the claim that the Canal de Haro is "the channel," "*rests entirely* on the correspondence of Mr. McLane and the speech of Mr. Benton." If this be a fair construction of my position in regard to that channel, then the claim for Rosario Straits rests on no foundation whatever, for *your opinion*, equally with my own, is set aside by such a view of the case. Having shown, heretofore, that the evidence of Mr. McLane and Mr. Benton proves that the Canal de Haro was originally intended by the British government, and that the intention remained unchanged, I am not unwilling to let the question rest *entirely* upon their evidence for the present. When any substantial cotemporaneous counter evidence is produced, it will then be time enough to bring forward more if necessary.

I do not deem it necessary to enter into any argument to show the fallacy of your inference, that if the Canal de Haro be admitted as "the channel," with equal justness it might be argued that "the line along the forty-ninth parallel should not strike the water at the *forty-ninth parallel*, but that it should *deflect*

to Birch's Bay." A glance at Vancouver's chart, or at Wilkes's map of the Oregon Territory, will show why that "arm of the sea" was named by Mr. McLane in giving the substance of the proposition of the British government, and also why it was not introduced into the treaty.

Your remark as to the applicability of the general maxim of Vattel (quoted by me) to the United States, rather than to the British government, might have some force if the proposition had not emanated from the latter. The language chosen to convey their intention could not be objected to by the former, unless it failed to express that intention clearly. That it was fully understood I have heretofore shown.

In recognizing and admitting the fact that the various channels between the continent and Vancouver's Island are directly or indirectly connected with the Straits of Fuca or Gulf of Georgia, I do not see any conflict with the claim I have made, that the boundary line should be traced *through the middle* of the *Canal de Haro* in strict adherence to the terms of the treaty; for, even if according to your proposition all the space referred to should be considered *one channel*, it would be impossible to run a line "through the middle of the said channel" in strict accordance with the terms of the treaty, without coming in contact with islands. But following the precedents in like cases where there are several channels, it would make no difference in the result, for the *main channel* would have to be adopted, and, consequently, the Canal de Haro would still be the channel of the treaty.

From the conclusion of your letter it might appear as if I had disappointed a reasonable expectation on your part that I would respond to your proposition for a mutual concession. Considering the powerful evidence I have brought forward to sustain my opinion that the Canal de Haro is "the channel," against your opinion alone, unaccompanied by a particle of evidence to sustain it, I am at a loss to understand upon what ground you could have expected me to yield one inch of the line I have claimed, and proved to be the true boundary intended by the treaty. I must candidly confess that I think any proposition with a view to concession on the part of the United States was hardly justifiable under the circumstances.

With the highest regard and esteem, I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner on the part of the United States  
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,  
*H. B. M. First Commissioner N. W. Boundary.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, Gulf of Georgia, December 3, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date.

With every assurance of my respect and esteem, I have the honor to remain your most obedient, humble servant,

JAMES C. PREVOST,  
*Captain H. B. M. ship Satellite, and her Majesty's  
First Commissioner for determining the Line of Boundary  
between the Continent and Vancouver's Island.*

ARCHIBALD CAMPBELL, Esq.,  
*U. S. Commissioner N. W. Boundary, &c., &c., &c.*

## MINUTES OF PROCEEDINGS OF JOINT COMMISSION.

*First Meeting.*

On Saturday, the 27th day of June, 1857, met on board her Britannic Majesty's ship *Satellite*, in the harbor of Esquimalt, Vancouver's Island.

Archibald Campbell, esq., appointed Commissioner on the part of the United States of America to carry into effect the first article of the treaty between the United States and Her Britannic Majesty of the 15th June, 1846.

Lieutenant John G. Parke, Topographical Engineers, appointed Chief Astronomer and Surveyor on the part of the United States of America to carry into effect the first article of the treaty as aforesaid.

James Charles Prevost, esq., Captain Royal Navy, commanding Her Britannic Majesty's ship *Satellite*, appointed her Britannic Majesty's first Commissioner for determining so much of the boundary line according to the first article of the treaty aforesaid as is to be traced from the point where the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia.

Respective commissions exhibited and read and found to be in due form.

Commissions of Mr. Campbell and Lieutenant Parke, dated 14th February, 1857. Commission of Captain J. C. Prevost, dated 18th December, 1856.

Commissioners discussed generally their future plan of operations and agreed to proceed, so soon as may be convenient to both parties, to the locality of Point Roberts, in the neighborhood of which the initial point of the boundary line is expected to be found.

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*Second Meeting.*

Circumstances having occurred which brought about a meeting of the Commissioners on board Her Majesty's ship *Satellite* in Nanaimo harbor, Vancouver's Island, on Friday, the 17th July, 1857, Mr. Campbell and Captain Prevost met together, and having discussed matters and finding that the surveying vessel, the *Plumper*, had not yet arrived, and no actual progress could be made without her assistance, they therefore agreed to adjourn until the course of events should render a further meeting desirable.

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*Third Meeting.*

Third meeting of the Commission for determining the Boundary line under the first article of the treaty between the United States of America and Great Britain of 15th June, 1846, took place on board Her Majesty's ship *Satellite* in Simiahmoo Bay, near to Point Roberts, on Monday, 26th October, 1857, at 11 a. m.

Present: Archibald Campbell, esq., United States Commissioner; Lieutenant J. G. Parke, United States Army, Chief Astronomer and Surveyor United States Commission; James C. Prevost, esq., British Commissioner; William A. G. Young, Secretary British Commission.

Commissioners proceeded to discuss the subject of the water boundary. Captain Prevost stated his regret that Her Majesty's surveying vessel *Plumper* was still absent, but as he had opportunities of verifying the general accuracy of the United States Coast Survey chart of 1854, he was willing to take that chart as the chart upon which the general character of the boundary line could be determined, leaving the correct tracing of that line as an afterwork to be carried out by the surveyors.

First article of the treaty of 15th June, 1846, read: Subject, as to which channel should be received as the channel of the treaty discussed by the commissioners, Mr. Campbell maintaining that, according to his views, the line



should pass through the Canal de Haro, and Captain Prevost stating that it appeared that the channel called the Rosario Strait was the only one that would answer to the channel laid down in the treaty.

Commissioners adjourned at 1.30 p. m. to consider over the different points advanced in favor of the respective views entertained.

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*Fourth Meeting.*

Fourth meeting of the Northwest Boundary Commission at Simiahmoo Bay, Gulf of Georgia, on board Her Majesty's ship Satellite, at noon of Tuesday, 27th October, 1857.

Present: Same as preceding day.

Discussion as to which of the two channels, the Rosario Strait or the Canal de Haro, was the better navigable channel, Captain Prevost stating that for sailing vessels the Rosario Strait was preferred to the Canal de Haro.

Discussion as to the channel of the treaty, Mr. Campbell advancing that the Canal de Haro was the channel intended, and Captain Prevost contending that the Canal de Haro would not meet the conditions of the channel of the treaty.

Commission adjourned at 2 p. m.

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*Fifth Meeting.*

Fifth meeting of the Joint commission for determining the Boundary line under the first article of the treaty of June 15, 1846, between the United States and Great Britain took place at the office of the United States Northwest Boundary Commission, Camp Simiahmoo, near the forty-ninth parallel, Friday, November 20, 1857, at 2½ o'clock p. m.

Present: Archibald Campbell, esq., United States Commissioner; Lieutenant John G. Parke, United States Army, Chief Astronomer and Surveyor United States Commission; William J. Warren, Secretary United States Commission; James C. Prevost, esq., Captain Royal Navy, first British Commissioner; George Henry Richards, esq., Captain Royal Navy, second British Commissioner; William A. G. Young Secretary British Commission.

Captain Prevost stated that he had received the letter from Mr. Campbell of the 18th instant, but he was not yet prepared to enter into any discussion upon it; and that the object of the present meeting was to introduce Captain Richards.

The meeting adjourned at 3 o'clock p. m., Mr. Campbell leaving it to Captain Prevost to name the time of the next meeting.

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*Sixth Meeting.*

Present: Same as at last meeting. A meeting was held on the 3d day of December, 1867, at the camp of the United States Northwestern Boundary Commission, Simiahmoo Bay, Gulf of Georgia, of the Joint Commission for determining the line of water boundary described in the first article of the treaty between the United States and Great Britain of the 15th of June, 1846.

Captain Prevost, Her Majesty's first Commissioner, stated that he had duly received and attentively considered all Mr. Campbell's correspondence upon the subject of "the channel" through which the boundary line was to pass according to the treaty, and that he was unable to admit that the Canal de Haro, as claimed by Mr. Campbell, was a channel which would meet the requirements of the treaty, but on the contrary that he considered the channel now called the Rosario Strait was the only one which would in all points answer to the channel described in the treaty. Such being the case, and Mr. Campbell remaining firm in his opinion as to the Canal de Haro being the channel through which the boundary line should pass, Captain Prevost had proposed that the disagree-

ment should be settled by mutual compromise, which proposition Mr. Campbell declining to entertain, he begged now to submit that the whole matter and correspondence connected with the same should be referred by each to his government.

Mr. Campbell, United States Commissioner, in reply stated that he did not concur in the proposal as to the *reference* of the matter to the respective governments, but that so far as he was concerned he should *report* proceedings to his government, submitting at the same time all the correspondence upon the subject.

Commissioners agreed to adjourn until circumstances should render their meeting again necessary.

Commission adjourned.

ARCHIBALD CAMPBELL.  
JAMES C. PREVOST.

*Mr. Campbell to Mr. Cass.*

WASHINGTON, *June 1, 1858.*

SIR: I transmit herewith a copy of a letter from Mr. Everett, and a pamphlet by William Sturgis, which I respectfully request may be filed with the documents already submitted by me in relation to the determination of the boundary channel between the continent and Vancouver's Island.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Com'r N. W. Boundary Survey.*

Hon. LEWIS CASS,

*Secretary of State.*

*Mr. Edward Everett to Mr. Campbell.*

BOSTON, *May 29, 1858.*

DEAR SIR: Your favor of the 27th reached me yesterday. I lost no time in placing it in the hands of Mr. Sturgis, who is my near neighbor, and requesting of him a copy of his pamphlet for you. He has kindly placed three copies in my hands, which I forward by this day's mail.

With respect to your inquiry how it became known that this pamphlet was placed in possession of the framers of the treaty of 1846, Mr. Sturgis informs me that pending the negotiation he was in confidential correspondence with his relative, Mr. Bancroft, at that time a member of Mr. Polk's cabinet, and for obvious reasons the member most likely to have influence in reference to a question of an historical character; and also with Mr. Joshua Bates, of London, the well-known member of the house of Baring Brothers & Co. Mr. Sturgis's pamphlet and letters were communicated regularly by Mr. Bates to Lord Aberdeen, then minister of foreign affairs. Mr. Sturgis has read me, within an hour, portions of this correspondence; and in one of Mr. Bates's letters it is stated that, at a recent dinner at his son-in-law's, Mr. Van de Weyer, the Belgian minister, when Lord Aberdeen and Mr. Bates were present, Lord Aberdeen informed Mr. Bates that he considered Mr. Sturgis's pamphlet a fair, practicable, and sensible view of the subject, and that it had been read by all the ministers.

I will only add the suggestion that as the radical principle of the boundary is the 49th degree of latitude, and the only reason for departing from it was to give the whole of Vancouver's Island to the party acquiring the largest part of it; the deflection from the 49th degree southward should be limited to that object, and the nearest channel adopted which fulfils the above conditions.

I remain, dear sir, sincerely yours,

EDWARD EVERETT.

ARCHIBALD CAMPBELL, Esq.



*Extract from Pamphlet, by Mr. William Sturgis.\**

I deem it very desirable that the question of boundary should be speedily adjusted, and that the limits and the rights of each party be so clearly established and defined as to prevent all danger of collision hereafter. In this opinion I doubt not that the distinguished statesmen, Messrs. Pakenham and Calhoun, who now have charge of the negotiation, will cordially concur; and it seems to me that each party will attain their object and justice be done to both, by adopting as the boundary a continuation of the parallel of  $49^{\circ}$  across the Rocky Mountains to tidewater, *say to the middle of the "Gulf of Georgia;" thence by the northernmost navigable passage (not north of  $49^{\circ}$ ) to the Straits of Juan de Fuca*, and down the middle of these straits to the Pacific Ocean; the navigation of the Gulf of Georgia and the Straits of Juan de Fuca to be forever free to both parties, *all the islands and other territory lying south and east of this line to belong to the United States*, and all north and west to Great Britain. By this arrangement we should yield to Great Britain the portion of Quadra and Vancouver's Island that lies south of latitude  $49^{\circ}$ , which, in a territorial point of view, is of too little importance to deserve a moment's consideration; and both parties would secure for a considerable extent a well-defined natural boundary, about which there could hereafter be no doubt or dispute. Will Great Britain accede to this? I think she will.

*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, 49th Parallel, September 25, 1858.*

SIR: In compliance with my instructions to keep the department from time to time advised of the progress of the work intrusted to my charge, I have the honor to report, &c. \* \* \* \* \*

The determination of the forty-ninth parallel being a purely scientific operation, it is not probable, in the survey of the land boundary, that any question can arise between the commissioners that will cause serious interruption or delay in the demarcation of the line.

In reference to the water boundary, however, which depends mainly upon the interpretation of the language of the treaty defining it, I had the honor on the 10th of February last to inform you that a question had arisen between Captain Prevost and myself as to "the channel" through which the boundary line is to be traced; and to lay before you a copy of a correspondence and proceedings, setting forth our respective views on the subject, and the result of our disagreement. Since that time no further progress has been made in the settlement of this question. Meantime the minute survey of the channels and islands between the continent and Vancouver's Island is progressing. On the part of the United States Commission, the hydrographic work is carried on by Commander Alden, United States navy, in charge of the Coast Survey steamer *Active*, and the triangulation and survey of the shore line by Mr. Lawson, assistant of the Coast Survey, in charge of the brig *Fauntleroy*. On the part of the British Commission, the work is prosecuted by Captain Richards, second Commissioner and Surveyor, in command of Her Majesty's surveying steamer *Plumper*.

The settlement of the question of "the channel" involves the sovereignty of the group of islands called the Haro Archipelago, between the Canal de Haro and Rosario Straits, embraced in a space of about 400 square miles. The recent emigration to this region has attracted considerable attention to this beautiful and picturesque group of islands, and much greater interest than heretofore is now manifested in the settlement of the boundary question. The uncertainty

\* *The Oregon Question*.—Substance of a lecture before the Mercantile Library Association, delivered January 22, 1845, by William Sturgis, Boston: Jordan, Swift & Wiley, 1845.

in regard to their sovereignty prevents them from being occupied by American settlers. The largest and most valuable of these islands are San Juan, Orcas, and Lopez; and upon each of them there is a large portion of land suitable for agricultural and grazing purposes. It is in a military and naval point of view, however, that their importance is to be mainly regarded. The late General Persifer F. Smith, who visited this section of country while in command of the Department of the Pacific, fully estimated their importance to the national defence, and, in December, 1857, presented his views on the subject to the President, in a letter now on file in the State Department, in which he says:

When I had the pleasure of meeting you in Washington, I intended to speak to you on a subject of great importance connected with the boundary between the United States and the British possessions north of them on the Pacific coast. The line, after having followed the forty-ninth parallel to the sound dividing the island of Vancouver from the continent, is to run south, taking the main channel to its intersection with the Straits of Juan de Fuca, and then west through those straits to the ocean. At this intersection lies a group of islands, just north of the end of the straits, commanding the entrance into the sound and opposite to the entrance of Admiralty Inlet and Puget's Sound in our own territory. These islands form a naval harbor that may be defended against any force if they are fortified as they may be, and the nation that disposes of them thus will absolutely command not only Queen Charlotte's Sound, but all those splendid harbors in our territory on the waters of Admiralty Inlet and Puget's Sound, as well as those on the Straits of Juan de Fuca and the navigation of that inlet. These harbors are the best on the Pacific coast, for, with the timber that covers the hills bordering on them, and the coal in the adjacent territory as far south as Gray's Harbor, they possess the great advantage of a rise and fall of tide of twenty-one feet, rendering the construction and use of docks easy and cheap.

I visited all these waters in 1849-'50, and on my return represented to the President the immense importance of the islands referred to; and afterwards, at his request, gave Governor Stevens, then about to start for Washington Territory, a written memorandum in relation to the subject.

In 1855 Captain George Stoneman, of the Dragoons, and Lieutenant W. H. O. Whiting, of the Corps of Engineers, by order of General Wool, then commanding the Department of the Pacific, made a military examination of this part of the northwest coast, and in their report they express their opinion in relation to the value of these islands, as a means of defending the approaches to our territories and the inland waters, as follows:

Between the Gulf of Georgia and the Straits of Fuca are two great channels, the Straits of Haro on the west and of Rosario on the east, separated by the Archipelago, a group of small islands, forming a very important feature of the sound. The title to these is in dispute between the English and American governments. There can, however, be no reasonable doubt as to the validity of our claim. The natural and direct ship channel, the treaty boundary, is the Straits of Haro. No vessel bound for the Gulf of Georgia would take the longer, narrower and more intricate passage of Rosario Straits. In considering the subject of the defence of the sound, these islands are important, and we shall again briefly recur to them.

It is easily seen from the maps of our western coast that the sound and the straits are the only available point which can afford an enemy the *point d'appui* for an attack on San Francisco, or refuge, wood, water, coal, provisions, timber and spars, for a blockade of our coast. Possessing this, an enemy has every advantage, either for prompt attack or for continued action. The strong northwest winds which prevail with the regularity of the trades for the greater part of the year make the passage of sailing ships from six to ten days, while steamers may do it in four. Vancouver's Island is naturally the key to this position, and it is greatly to be regretted that it does not belong to us. *There are, however, other points which may be improved to be nearly as effective.* Of these may be mentioned Port Discovery and Sequim Bay, opposite to the southern end of Vancouver; and also the Archipelago. This group consists of the islands of San Juan, Lopez, Orcas and Waldron the largest, besides several others not yet named. They are so situated that they form an admirable land-locked harbor of ample size, accessible by six narrow entrances in any wind and weather, and capable of being defended almost by small arms. As a naval station, secured by batteries, this position commands all the interior waters and the approach to the territories.

A further evidence of the importance to be attached to the sovereignty of these islands will be found in the steadiness of purpose with which the British government, from the ratification of the treaty to the present time, have endeavored to secure and retain possession of them. It is true that in their communications to our government, when endeavoring to procure the adoption of Rosario Straits as

the boundary channel, they have designated them as "islets of little or no value," yet, at the same time, Governor Douglas had "received the orders of Her Majesty's ministers to treat these islands as part of the British dominions."

By a reference to my report of the 10th of February last, it will be seen that after a full discussion upon the relative claims of the Canal de Haro and Rosario Straits to be considered as "the channel which separates the continent from Vancouver's Island," Captain Prevost finally proposed, by way of compromise, to run the boundary line through one of the channels between the Canal de Haro and Rosario Straits, dividing the islands so as to give San Juan to Great Britain and the other islands of the group to the United States. Being fully satisfied that the Canal de Haro was "the channel" intended by the treaty, I declined to entertain the proposal. Captain Prevost then proposed a reference of the whole matter to our respective governments. As I did not consider the circumstances such as to justify him in making such a proposal, I did not concur in it. I therefore reported the proceedings of the joint commission to the department, and Captain Prevost, upon his own responsibility referred the question to his government, and has not yet received any further instructions for his guidance on the subject.

When the British government consider the evidence brought to light showing the intentions of the two governments in relation to the meaning of the language of the treaty defining the boundary line between the continent and Vancouver's Island, it is but fair to presume they will direct their commissioner to adopt the Canal de Haro as the boundary channel; and in consideration of the importance of a speedy settlement of the question, it is to be hoped that they will take early action on the subject. There is no part of the boundary between the two countries, from the Pacific Ocean to the Rocky Mountains, where a demarcation of the line is more to be desired.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, December 1, 1858.*

SIR: I have the honor to transmit herewith the copy of a letter from the Hon. George Bancroft, in reply to inquiries from me as to the interpretation which was placed upon the first article of the treaty of 1846, in relation to the water boundary, by the British government, at the time he was minister to London.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

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*Mr. George Bancroft to Mr. Campbell.*

NEW YORK, June 15, 1858.

SIR: Your letter of May 27 has but just reached me, in consequence of my absence from home on a long journey.

I was in the administration of Mr. Polk at the time when Mr. Buchanan perfected the treaty for settling the boundary of Oregon. The basis of the settlement was the parallel of 49°, with the concession to Britain of that part of Vancouver's Island which lies south of 49°. The United States held that both parties had a right to the free navigation of the waters round Vancouver's Island, and

therefore consented that the British boundary should extend to the centre of the Channel of Haro. Such was the understanding of everybody at the time of consummating the treaty in England and at Washington. The Hudson's Bay Company may naturally enough covet the group of islands east of that channel, but the desire, which never can amount to a claim, should not be listened to for a moment.

While I was in England no minister was preposterous enough to lend the authority of the British government to the cupidity of the Hudson's Bay Company in this particular. I think you must find in the Department of State a copy of a very short letter of mine to Lord Palmerston, enclosing him a chart of those waters as drawn by our own Coast Survey.\* I think in that letter I mentioned the centre of the Straits of Haro as the boundary. That chart would show by the depths of the soundings that the Straits of Haro are the channel intended in the treaty, even if there had not been a distinct understanding on the part of the British government as well as the American at the time of the signing of the treaty. Lord Palmerston, in his reply acknowledging the receipt of the chart, made no pretence of adopting the wishes of the Hudson's Bay Company, and he never did so, even in conversation. I never had occasion in England to make any peremptory statement on the subject, because nothing was ever said or hinted there which required it; but always, whenever conversation turned upon the subject, whether with Lord Palmerston or with the under-secretary of the colonial office, I always spoke of the Strait of Haro as undeniably the channel of the treaty, and no member of the British government ever took issue with me. In running the line through the centre of the Straits of Haro there may be one or two small islands about which a question might be raised, but as to the important group that the Hudson's Bay Company covet, the demand, if made, should be met at the outset as one too preposterous to be entertained as a question.

Yours, sincerely,

GEORGE BANCROFT.

ARCHIBALD CAMPBELL, Esq., *Commissioner, &c.*

Correspondence referred to by Mr. Bancroft will be found accompanying Mr. Campbell's letter, January 20, 1859.

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, January 20, 1859.*

SIR: I have the honor to request that the accompanying copy of a correspondence of Mr. Boyd, Chargé d'affaires *ad interim*, and Mr. Bancroft, minister to London, with the Department of State, be filed with the papers I have already transmitted to the department in relation to the water boundary.

In connection with the various documents I have heretofore laid before you on the same subject, they expose the cautious and steady policy with which the British government have been advancing, step by step, in their pretensions to the group of islands east of the Canal de Haro, in violation of the letter and spirit of the treaty of 1846, from its ratification to the present time.

Mr. Bancroft's connection with Mr. Polk's administration, during the negotiation and ratification of the treaty, gave him the best means of knowing with certainty the views of the contracting powers, and particularly those of his own government, in regard to the boundary line agreed upon between the United States and British possessions. And from his position as head of the Navy Department he took particular interest in the water boundary, as is shown by his causing to be prepared, in advance of its publication, a tracing of Cap-

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\*Wilkes's chart.

tain Wilkes's chart of the space between the continent and Vancouver's Island, with soundings, showing the Canal de Haro to be the nearest channel to Vancouver's Island, as well as the main channel. His position at London as United States minister, almost immediately after the ratification of the treaty, gave him good opportunity of ascertaining the views of the British government in regard to the boundary channel at that early day. Until October, 1848, he appears to have been under the impression that the Hudson's Bay Company alone coveted the possession of the valuable group of islands east of the Canal de Haro, and that the British ministry did not favor their pretensions. His intercourse and correspondence with Lord Palmerston on the subject naturally led him to that conclusion. He openly declared, both verbally and by letter, the Canal de Haro to be the treaty "channel," without any objection or denial on the part of Lord Palmerston, who, on the contrary, although studiously avoiding the mention of the Canal de Haro by name, virtually admits it when he says the *soundings* will be of *great service* to the commissioners in *determining where* the boundary line *ought to run*.

By instructions from Lord Palmerston, Mr. Crampton, in his letter to Mr. Buchanan of January 13, 1848, proposed to the United States to appoint a joint commission for the purpose of marking out the water boundary; the commissioners to be sent out with joint instructions to carry the line down the channel through which Vancouver sailed, (now called Rosario Straits,) on the pretence that it was the only channel that hitherto had been surveyed and used, and that it was therefore natural to suppose that the negotiators of the Oregon treaty in employing the word "channel" had that particular channel in view. To this communication no answer from Mr. Buchanan is found on the records of the department. But Mr. Crampton's letter to Mr. Marcy dated February 9, 1856, purports to give the reply of Mr. Buchanan to this proposition, without indicating, however, whether it was written or verbal. Mr. Buchanan is represented as "entirely concurring in the expediency of losing no time in determining that portion of the boundary line; [he,] nevertheless felt some objection to adopting the channel marked by Vancouver as the 'channel' designated by the treaty, in the absence of more accurate geographical information; and he suggested that the joint commissioners, when appointed, should be in the first place instructed to survey the region in question for the purpose of ascertaining whether the channel marked by Vancouver, or some other channel, as yet unexplored, between the numerous islands of the Gulf of Georgia, should be adopted as the channel designated by the treaty, or, in other words, should be found to be the *main channel*, through the middle of which, according to the *generally admitted principle*, the boundary line should be run."

"To this suggestion," Mr. Crampton adds, "Her Majesty's government, in the hope that immediate measures would be taken by the government of the United States to name commissioners to proceed to the spot with those already designated by the British government, made no objection." And this statement seems to be confirmed by the note of Lord Palmerston to Mr. Bancroft acknowledging the receipt of Captain Wilkes's charts, in which he says: "The information as to soundings contained in these charts will, no doubt, be of great service to the commissioners who are to be appointed under the treaty of the 15th of June, 1846, by assisting them in determining *where* the line of boundary described in the first article of that treaty *ought to be run*." This note was written after Lord Palmerston had learned from Mr. Crampton that Mr. Buchanan would not consent to adopt Vancouver's Channel, but had suggested that further surveys be made and the *main channel* adopted.

During my discussion with Captain Prevost I had no special knowledge of Mr. Buchanan's views in regard to the water boundary any further than was to be gathered from his correspondence with Mr. McLane, published with the executive proceedings of the Senate after the injunction of secrecy was



removed. From that I took the ground that Mr. Buchanan intended the Canal de Haro as "the channel" through which the boundary line was to run, and that Mr. Pakenham must have had the same meaning when they concluded and signed the treaty. It was not until after I had reached Washington last winter that I obtained a copy of the Senate document containing Mr. Crampton's letter, from which the foregoing extracts are made. I transmitted a copy of it to the department with my report of the 10th February, and called attention to Mr. Crampton's letter.

Lord Napier subsequently showed me a despatch from Mr. Crampton to Lord Palmerston, informing him that, in accordance with instructions, he had read to Mr. Buchanan, or communicated to him, the substance of the despatch he had received from his lordship, and minutely relating the conversation which ensued. It is substantially the same as that recorded in the letter to Mr. Marcy, though in regard to the main channel it is rather more emphatic. Mr. Buchanan is here represented as saying he thought the main channel, no matter where it should be found, was the one intended by the treaty. And, I think, it is also added that he said he had not given the subject much reflection, but was in favor of leaving the determination of the main channel to commissioners. He also requested Mr. Crampton to embody in a letter to him the views of the secretary of state for foreign affairs. Mr. Crampton informs Lord Palmerston that he has embodied his instructions in a communication to Mr. Buchanan, and hopes his lordship will not disapprove of what he has done.

After I had submitted my report of the proceedings of the joint commission to the department, I was furnished with a copy of Mr. Buchanan's letter to Mr. Bancroft, dated December 28, 1846, in reply to one from Mr. Bancroft stating that it had been intimated to him that a question might arise in regard to the islands east of the Canal de Haro, and requesting authority to meet any such claim at the threshold, by the assertion of the Canal de Haro as the channel intended by the treaty. Mr. Buchanan here distinctly claims the Canal de Haro as the treaty channel, and quotes Mr. McLane's letter of the 18th of May to show that such also was the intention of Lord Aberdeen in making the proposition to the United States for a settlement of the Oregon question. He, at the same time, in compliance with Mr. Bancroft's request, transmits the traced copy of Wilkes's chart of the Canal de Haro, which Mr. Bancroft left in the Navy Department. In doing so, he says: "This will enable you to act understandingly upon any question which may hereafter arise between the two governments in respect to the sovereignty of the islands situate between the continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of her Britannic Majesty's government, to any island lying to the eastward of the Canal de Haro, as marked on Captain Wilkes's 'Map of the Oregon Territory.' This, I have no doubt, is the channel which Lord Aberdeen had in view, when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his lordship explained the character of the proposition he intended to submit through Mr. Pakenham."

It would appear from the tenor of Mr. Buchanan's reference to the tracing of Captain Wilkes's chart of the Canal de Haro, that he was aware that it was the *main channel* in that particular part of the space between the continent and Vancouver's Island south of the 49th parallel, where several channels are represented on the maps, as well as the particular channel understood between Mr. McLane and Lord Aberdeen, as carrying out the object of both governments in deflecting from the 49th parallel, viz: to give the whole of Vancouver's Island to Great-Britain. In conversing with Mr. Crampton on the subject, a year subsequently, without reference to maps or documents, and without giving the subject particular consideration, Mr. Buchanan may simply have remembered

the fact that the Canal de Haro was the main channel, without recalling its name. Practically it can make no difference whether the main channel be adopted as "*the channel*" intended by the treaty upon the "generally admitted principle" recognized by Mr. Crampton, and assented to by Her Majesty's government in 1848; or whether the Canal de Haro be adopted on the proof of cotemporaneous evidence that it was proposed by the British government, and in good faith accepted by the United States as the boundary channel. In either case the Canal de Haro would be the boundary channel. In advocating it with Captain Prevost, I did not confine myself singly to either of these sufficient grounds, but maintained both, with others equally forcible and tenable.

Under the mere letter of the treaty, without any knowledge of, or reference to, the motives, which induced the adoption of the water boundary, "the channel which separates the continent from Vancouver's Island" may fairly be construed as follows :

1. As "*the channel*;" that is, the *main channel*, if there be more than one. And this is the view taken by nautical men generally, including officers of our navy whom I have consulted in reference to the language of the treaty.

2. The channel nearest to *Vancouver's Island*, without regard to its size, so that it is navigable; the proviso to the first article requiring that the *navigation* of said channel shall be free and open to both parties. If it had been intended to mean any other channel than that nearest Vancouver's Island, that island need not to have been mentioned at all, or, if referred to, "the channel which separates the continent from the archipelago east of Vancouver's Island," or "the channel nearest the continent," would have been the proper description of the channel now claimed by the British commissioner under "the peculiarly precise and clear" language of the treaty.

3. Upon the international ground that islands are natural appendages to the continent, and that, unless otherwise agreed, *all* the islands between the continent and Vancouver's Island east of the nearest navigable channel to Vancouver's Island pertain to the continent.

The Canal de Haro would be the channel under either of the above legitimate readings of the treaty.

But leaving the mere letter of the treaty, and referring to the history of the negotiation to ascertain the cause which prevented the United States and the British government from agreeing upon the prolongation of the forty-ninth parallel to the ocean, it will be found that the southern end of Vancouver's Island was alone the stumbling-block. The British government refused to concede it to the United States, four-fifths of the island being north of the forty-ninth parallel; and the southern end, with its harbors, being the most valuable portion. The United States, considering the disadvantages of a divided jurisdiction of the island, and the probabilities of difficulties arising therefrom, reluctantly yielded it. This was the sole object in deviating from the forty-ninth parallel, and reduces the water boundary to a very simple question. It was a second compromise line. Divested of all quibbles, the meaning of the treaty is that the forty-ninth parallel shall be the dividing line between the territories of the United States and the British possessions until it reaches "the middle" of the nearest natural boundary to *Vancouver's Island*; and thence the line shall be run to the ocean by the nearest natural boundary, in such a direction as will give the whole of Vancouver's Island to that power upon whose side the greatest portion would fall by the prolongation of the parallel to the ocean.

During my recent visit to Washington Lord Napier expressed a desire to converse with me in regard to the points of difference between the British commissioner and myself upon the question of the water boundary. In compliance with his wishes several interviews took place between us, in which the facts and arguments on both sides of the question were fully discussed. Lord Napier conceded that he could not attach any importance to Captain Prevost's agree-



ment in favor of Rosario Straits, based upon his interpretation of the word "southerly," and upon what he designates "the very peculiar wording" of the treaty; "though," he added, "the Earl of Clarendon does seem to attach some importance to it." He also acknowledged that there was much force in the argument in favor of the Canal de Haro; that the sole object of the deviation from the forty-ninth parallel was to avoid dividing the sovereignty of Vancouver's Island, and to give the whole of it to Great Britain; and agreed that if the forty-ninth parallel had intersected Vancouver's Island so as to throw the greater portion of it on the American side, the line would in all probability have been turned "northerly" instead of "southerly" to the Pacific Ocean; but nevertheless was unwilling to admit that Mr. McLane's report of his conference with Lord Aberdeen was definitive proof that the Canal de Haro is the boundary channel which was actually intended by his government in the proposition they submitted to the United States. The language of the treaty in regard to the particular "channel" through which the boundary line is to run, he argued, might be considered as at least indefinite. Captain Prevost, on the contrary, maintains the language of the treaty in regard to "the channel" to be so free from obscurity, and "worded" in such "clear and precise terms," that he cannot conscientiously admit any evidence to weigh with him that would lead to an interpretation differing from the one chosen by him.

As it seems to have been no part of the business of the British commissioner to ascertain by cotemporaneous evidence the actual intentions of his own government in regard to the water boundary, nor of his own government to furnish him with such evidence, I suggested to Lord Napier that an examination of the instructions of Lord Aberdeen to Mr. Pakenham containing the "proposition" referred to by Mr. McLane ought to throw some light upon the subject. He subsequently produced the original despatch from the archives of the legation, and submitted it to my perusal.

It is a long document, (dated May 18, 1846,) and is mainly devoted to a review of the state of feeling between the United States and Great Britain upon the Oregon question, contrasting favorably the conduct of Great Britain with that of the United States throughout the excitement. In resuming the negotiation for an amicable settlement of the question, Mr. Pakenham is authorized to propose as a boundary line "the forty-ninth parallel to the sea-coast, thence in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the ocean, thus giving to Great Britain the whole of Vancouver's Island and its harbors."

I regret that Lord Napier did not feel at liberty to furnish me with a copy of the document, as I requested; but, as he declined, I was obliged to content myself with a careful perusal of it. I wrote down the foregoing description of the boundary line from memory shortly afterwards, and believe it is substantially, if not verbally, correct. For greater certainty, however, it would be well for the department to obtain a copy, as there may be other points touching the subject of the boundary which escaped my notice in the attention I had to bestow on the above extract.

Mr. McLane, in his despatch to Mr. Buchanan, of the same date, (May 18, 1846,) refers to the proposition to be submitted to the United States through Mr. Pakenham, as follows:

I have now to acquaint you that after the receipt of your despatches, on the 15th instant, by the Caledonia, I had a lengthened conference with Lord Aberdeen, on which occasion the resumption of the negotiation for an amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose, formed the subject of a full and free conversation. I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow to submit a new and further proposition on the part of this government for a partition of the territory in dispute. The proposition, most probably, will offer, substantially, first, to divide the territory by the extension of the line on the parallel of forty-nine to the sea; that is to say, to the arm of the sea called Birch's Bay; thence by the Canal de Haro and Straits of Fuca to the ocean; and confirming to the United States,

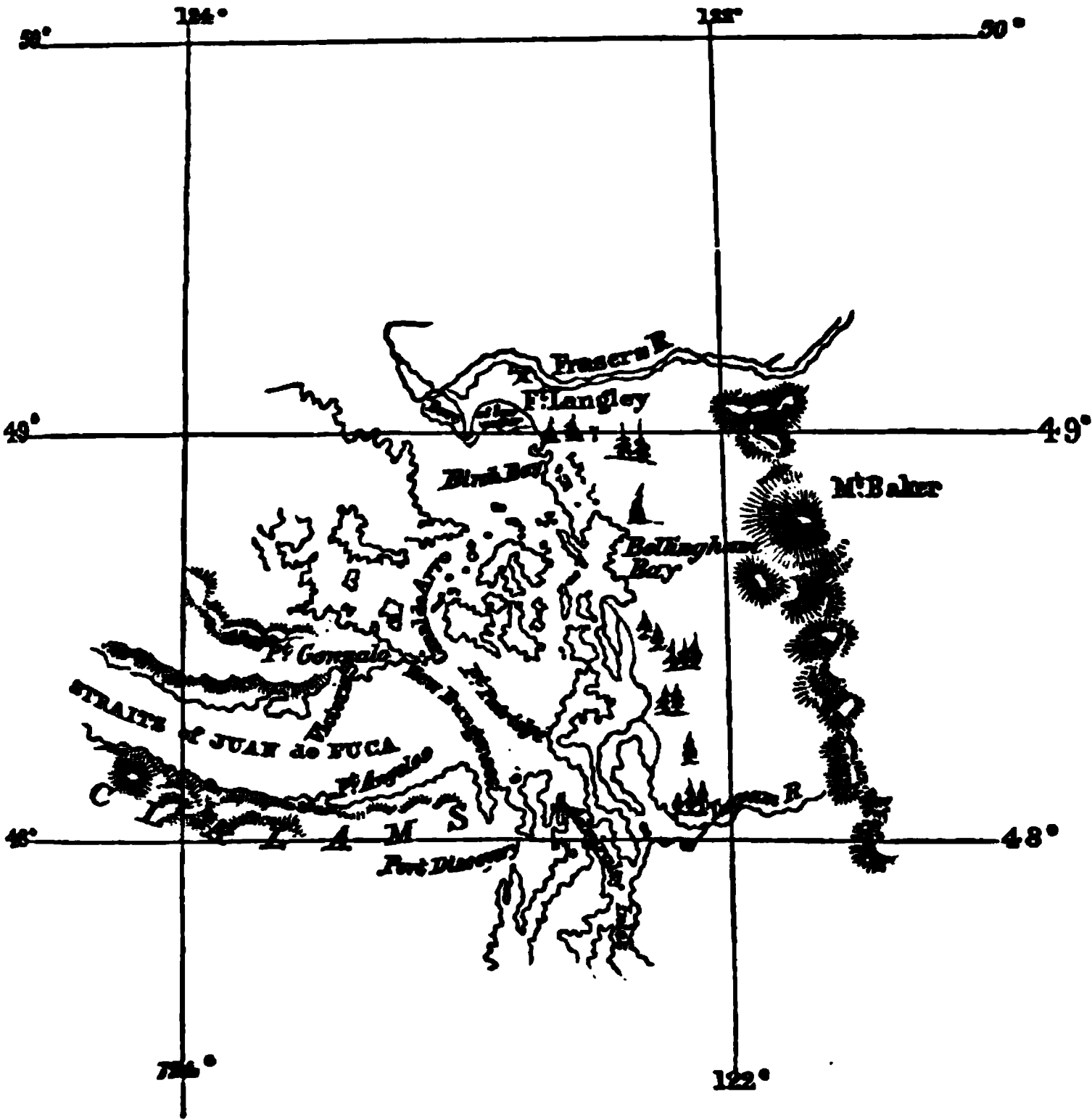
SKETCH No. 1.

[Copied from Vancouver's chart, with line denoting vessel's track northward.]



SKETCH No. 2.

[Copied from Wilkes' Map of the Oregon Territory.]





what indeed they would possess without any special confirmation, the right freely to use and navigate the strait throughout its extent.

Both despatches having been written almost immediately after the "nature of the proposition" to be submitted to the United States had been fully and freely discussed, it may seem strange that the description of the boundary line contained in them is not identical. But an examination of the maps which were most probably before Mr. McLane and Lord Aberdeen in describing the line will show the difference between them to be only apparent.

I enclose a traced copy of Vancouver's chart, which, Captain Prevost officially informed me, he had "not the least doubt" was the map used by his government when the boundary line was under consideration. (See sketch No. 1, p. 59.) I also send a traced copy of so much of Captain Wilkes's "Map of Oregon Territory" as is necessary to show the boundary channel between the continent and Vancouver's Island, which, I have every reason to believe, is the map which was principally relied on by Mr. McLane at the same time. (See sketch No. 2, p. 61.) There can be little doubt that both Lord Aberdeen and himself had also in their possession, the Spanish Admiralty chart of Vancouver's Island, Greenhow's, De Mofras' and other maps of the northwest coast.

None of the maps extant at that day present a perfectly correct idea of the space between the continent and Vancouver's Island at, and immediately south of, the forty-ninth parallel. The Straits of Fuca and the archipelago east of the Canal de Haro are fairly enough represented; but between the Haro Archipelago and the forty-ninth parallel the space is inaccurately represented as free from islands, and, consequently, with but a single channel between the continent and Vancouver's Island. The surveys made subsequently to the conclusion of the treaty show that what was laid down by the early Spanish navigators, by Vancouver and by Wilkes, as the eastern coast of Vancouver's Island is in fact the coast of an extensive archipelago skirting the shore of the main island between latitude  $48^{\circ} 47'$  and  $49^{\circ} 10'$ . The actual space between the coasts of the continent and Vancouver's Island is nearly twice as great as it appears on the enclosed sketches from Vancouver's chart and Wilkes's map. A glance at the Coast Survey chart which I deposited in the department with my report of last February will give some idea of the true position of the coast of Vancouver's Island; but as that part of the chart is only copied from a sketch furnished Captain Alden by the Hudson's Bay Company, it is by no means reliable. I send herewith a tracing from the last admiralty chart of "Vancouver Island and the Gulf of Georgia," showing the same change in the coast of Vancouver's Island on a smaller scale. The British surveying steamer *Plumper* has recently completed the survey and chart of the greater portion of this space hitherto so little known except to the Hudson's Bay Company. As soon as I obtain a tracing of it from Captain Richards I will have a copy of the Coast Survey chart corrected by it and forwarded to the department.

The claim of the British government, made by their commissioner, that the "channel which separates the continent from Vancouver's Island" is the channel nearest the continent, or that through which the track of Vancouver's vessel is traced, makes it important to examine Vancouver's chart in connection with the line described by Lord Aberdeen, and at the same time to trace on Wilkes's chart the line described by Mr. McLane.

Mr. McLane, in tracing on the map the forty-ninth parallel "to the sea, that is to say the *arm of the sea* called Birch's Bay," evidently supposed that the space between the continent and Vancouver's Island at the forty-ninth parallel was designated as Birch Bay. And from the conspicuous position given to the name of Birch Bay on Wilkes's map, and even on Vancouver's chart, such an error might very naturally occur. In reality, however, Birch Bay is only the small indentation on the mainland at the extreme right of the name, and is a few miles south of the forty-ninth parallel. The name of the *Gulf of Georgia* is intended by Wilkes to extend from the parallel of  $50^{\circ}$  as far south as the



northern extremity of the Canal de Haro, including the space supposed by Mr. McLane to be Birch Bay. The line described by him "thence by the Canal de Haro and Straits of Fuca to the ocean" gives the whole of Vancouver's Island to Great Britain, in accordance with Lord Aberdeen's instructions to Mr. Pakenham and with the understanding between Mr. McLane and Lord Aberdeen, as detailed by the former in his letter of May 18, 1846. The English government have endeavored to create an impression that the Canal de Haro was unknown as a navigable channel when the treaty was negotiated, and that the channel through which Vancouver sailed was well known. The Canal de Haro, on the contrary, has always been well known as a navigable channel, and its name generally put down on maps even of a small scale, which is not the case with the channel through which Vancouver sailed. It is sufficient for the United States that Captain Wilkes surveyed the Canal de Haro in person, and that the fact is officially reported in his *Exploring Expedition*, which was reprinted and republished in England, in 1845, with the atlas containing the "Map of the Oregon Territory." His survey and soundings proved it to be the main channel, and a tracing of his chart was in the hands of Mr. Bancroft while a member of Mr. Polk's cabinet. The channel through which Vancouver sailed has had various names. It is called the "Canal de Fidalgo" on the early Spanish maps. Vancouver gave it no name. De Mofras, in 1841, has no name for it. Wilkes called it [in 1841] "Ringgold's Channel." The English admiralty map, of 1849, has it "Rosario Strait." Arrowsmith, in 1849, called it "Vancouver's Strait," and it is now universally called Rosario Straits. On all of these maps the channel nearest Vancouver's Island at its southern end is designated as the Canal de Haro, having received its name from its discoverer as early as 1789. De Mofras, [in 1841,] in describing the space between the continent and Vancouver's Island, says: "Here is found a multitude of little islands, which, notwithstanding the safe shelter they offer to vessels, present great impediments to navigation. The easiest passage is by the *Canal de Haro* between the island of Quadra and Vancouver and that of San Juan." And this opinion he must have derived from the general report of those engaged in the navigation of these waters, as his own explorations are considered very superficial.

Lord Aberdeen in tracing the boundary line follows the 49th parallel to the seacoast, and deflects "thence in a southerly direction through the centre of *King George's Sound* and the Straits of Fuca to the ocean." On either of the accompanying tracings, and, indeed, upon any map of the northwest coast, we may look in vain for "King George's Sound" between the continent and Vancouver's Island. This mistake is not so readily accounted for as Mr. McLane's in regard to Birch Bay, as the name is nowhere to be found on Vancouver's chart which is said to have been used by the British government in reference to the water boundary. "King George's Sound" is the name that was given in 1778, by Captain Cook, to Nootka Sound, on the western coast of Vancouver's Island, between latitude 49° and 50°. The name was never much in vogue, except to distinguish a mercantile association formed soon after the discovery of Nootka, called the "King George's Sound Company." There is, however, no need of conjecture as to Lord Aberdeen's actual meaning. He simply miscalled the Gulf of Georgia. I should hardly have noticed this discrepancy, nor that of Mr. McLane, if the British commissioner had not seized upon the latter with a view to weaken Mr. McLane's evidence in favor of the Canal de Haro, maintaining that if the Canal de Haro should be adopted upon Mr. McLane's statement, "with equal justness it might be argued that the line along the 49th parallel should not strike the water at the 49th parallel, but that it *should deflect to Birch's bay*, which is a few miles to the southward."

On Vancouver's chart the "Gulf of Georgia" extends as far south as the eastern extremity of the Straits of Fuca, and the name as printed appears intended to embrace generally the whole space between the continent and Van-

er's Island, including the Canal de Haro and Rosario Straits. From the parallel "in a southerly direction," as far as latitude  $48^{\circ} 47'$ , there is but one channel represented by Vancouver, and there is no practical difficulty in drawing a line through the "centre" of it. From there, southerly to the Straits of Georgia, a line drawn "through the centre of King George's Sound," [or Gulf of Georgia,] that is, midway between the shores of the continent and Vancouver's Island, would cut these islands into parts and divide their jurisdiction between the United States and Great Britain; to avoid which, even in regard to the large portion of Vancouver, the United States yielded their rights to the portion south of the 49th parallel, and agreed as a compromise, upon the nearest natural bound-

Of course a line dividing the smaller islands into parts could never have been contemplated by the British government, nor has it ever been claimed. Such would be the practical effect of Lord Aberdeen's proposition if literally carried out. Giving the proposition, however, the advantage of the most liberal as well as the most literal interpretation, the centre of the space between the continent and Vancouver's Island cannot, by any possibility, be transferred to the centre of Rosario Straits. The utmost liberality or literality could only be the line through the channel east of the island of San Juan. A line drawn through that channel would more nearly pass through the centre of the whole space between the continent and Vancouver's Island than if drawn through any other channel. But it has never been pretended that San Juan Channel was intended by the British government as the boundary channel, and therefore it never be claimed as "the channel" intended by the treaty. The two channels respectively claimed are the Canal de Haro and Rosario Straits, through one of which, according to the views of each government, must the boundary be run to "carry the treaty into effect." Mr. McLane's despatch of May 18, 1846, to his government, is the most important contemporaneous evidence (on the American side of the question) of the intentions of the British government in relation to the boundary channel, and Lord Aberdeen's instructions to Mr. Pakenham of the same date the highest evidence the British government could produce on the British side. Mr. McLane's evidence in favor of the Canal de Haro is explicit, and requires no explanation. I have shown that the line described in Lord Aberdeen's proposition cannot be tortured into a line through the middle of Rosario Straits. As he mentions neither channel, the same might be said of the Canal de Haro; and if there was nothing further to guide us as to the line really intended by Lord Aberdeen, we might have to fall back on the motive which induced the deflection from the 49th parallel to the ocean by the water boundary, viz: to give Great Britain the whole of Vancouver Island, or, according to "the generally admitted principle" in such cases, adopt the main channel. In either case the Canal de Haro would answer to "the channel" of the treaty.

But fortunately Lord Aberdeen does not leave the meaning of his proposition in any doubt; for he concludes his description with an explicit declaration of the object of the boundary, "*thus [or, in this manner] giving to Great Britain the whole of Vancouver's Island and its harbors.*" This conclusion confirms the correctness of Mr. McLane's statement of Lord Aberdeen's explanation of "the nature of the proposition" he contemplated submitting to the United States through Mr. Pakenham in regard to the boundary line. This boundary was, without the slightest doubt, adopted and proposed by the British government in consequence of an assurance on the part of Mr. McLane that such a line would probably be accepted by the United States. Mr. McLane had the authority of his government so to inform Lord Aberdeen, as will be seen by reference to Mr. Buchanan's letter to Mr. McLane, dated February 26, 1846, in Senate document No. 489, containing the "Executive proceedings, correspondence and documents relating to Oregon, from which the injunction of secrecy has been removed," a copy of which accompanies my report of February 10, 1858.

The general object of the treaty, as declared in the preamble, is that "the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory. The "amicable compromise," so far as it relates to a division of the territory in dispute, was an agreement to continue the boundary line along the 49th parallel on the continent, and then a water boundary so as to give the whole of Vancouver's Island to Great Britain. The correspondence of Mr. McLane and Mr. Buchanan shows that the southern end of Vancouver's Island was all that Great Britain refused to yield south of the 49th parallel, and all that the United States were willing to concede. Mr. Benton, the leading senator in favor of the treaty, advocates its ratification with that understanding of its meaning. In his speech on that occasion he says:

The line established by that article [the 1st] the prolongation of the boundary on the east side of the Rocky Mountains, follows the parallel of forty-nine degrees to the sea, with a slight deflection through the Straits of Fuca to avoid cutting the south end of Vancouver's Island. \* \* \* When the line reaches the channel which separates Vancouver's Island from the continent, (which it does within sight of the mouth of Fraser river,) it proceeds to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written Arro on the maps) to the Straits of Fuca; and then west through the middle of that strait to the sea. This is a fair partition of these waters, and gives us everything that we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay, and with them the cluster of islands, probably of no value, between De Haro's Channel and the continent.

In your speech against the ratification, on the same day, and apparently in reply to Mr. Benton, you say:

We have ceded to England the southern cape of Vancouver's Island, an important position which has been heretofore a subject of discussion between the two governments. \* \* \* Judging from the imperfect map I have examined, it cannot be much less than one hundred miles. Upon what principle of right or compromise this cession is to be made I have not heard explained. For myself I know of none but the old rule of might. England demands it, and we yield, and that tells the whole story.

In commenting upon the first article of the treaty, you thus describe the water boundary:

Vancouver's Island is separated from the continent by an arm of the sea, and about two hundred and fifty miles in extent, different portions of which are known by different names. One part is called the Straits of Fuca; another the *Canal de Haro*: another the Gulf of Georgia, and the fourth Queen Charlotte's Sound.

Although differing with Mr. Benton upon the construction that may be placed by Great Britain upon the second, third and fourth articles, and the *proviso* to the first article of the treaty, (to which in your opinion the vagueness of their terms will render them liable when they come to be carried into effect,) there is no disagreement between you as to the meaning of the language of the important article defining the boundary line. Nor does it seem ever to have been considered susceptible of more than one meaning by any person connected with the negotiation and ratification of the treaty on the part of the United States.

The wording of the treaty is the work of the British government. It was in their power to frame the language defining the boundary line so as to have precluded the "state of doubt and uncertainty" in which they have ever since its ratification so zealously labored to involve it; and if Captain Prevost has any foundation for the strong conviction he expresses that the Canal de Haro was originally in the projet of the treaty, and that by a designed alteration it was subsequently left out and the present language substituted to change its meaning, and that the words "the continent" and "Vancouver's Island" were "designedly reversed," with a view to make Rosario Straits "the channel which separates the continent from Vancouver's Island," he places his government in no enviable position.

Considering that Captain Prevost was "officially informed" by the Earl of Clarendon (the secretary of state for foreign affairs, from whom he received his instructions) that Rosario Straits was the channel contemplated by the British government as the channel of the treaty, I thought it not improbable that the instructions of Lord Aberdeen to Mr. Pakenham might have furnished some foundation for the assertion. Captain Prevost designates the Earl of Clarendon as "high and competent authority" in regard to the treaty channel. The highest authority in Great Britain on the treaty of 1846 must be the head of the department for foreign affairs who conducted the negotiation of the treaty and who authorized the proposition which brought it to a conclusion. Before the treaty was accepted and ratified by the United States and returned to London for the exchange of ratifications, a change of ministry had taken place, and Lord Palmerston, who succeeded Lord Aberdeen as secretary of state for foreign affairs, exchanged the ratifications with Mr. McLane July 17, 1846, within two months from the date of Lord Aberdeen's instructions to Mr. Pakenham. Lord Palmerston must therefore also be regarded as high and competent authority as to the intentions of his government in regard to the boundary channel. His views on that subject have already been fully set forth, and certainly do not sustain the intimations of the Earl of Clarendon to Captain Prevost any more than does the proposition of Lord Aberdeen in his instructions to Mr. Pakenham. I have not at hand the means of ascertaining the official position held by the Earl of Clarendon in the British ministry during the negotiation and conclusion of the treaty of 1846, or whether, indeed, he occupied any position under the British government during that period. But it can hardly be supposed that, under any circumstances, he had better means of information than Lord Aberdeen or Lord Palmerston in regard to the details of the treaty. And their views, as hereinbefore set forth, certainly do not sustain Captain Prevost's presumption that the Earl of Clarendon "had substantial grounds" for intimating to him in writing, as he had done, that Vancouver (or Rosario) Straits was the channel contemplated by his government.

Although the instructions of Lord Aberdeen to Mr. Pakenham could not possibly be construed into evidence in favor of Rosario Straits, the "peculiar wording" of his description of the water boundary line might very naturally suggest to the Earl of Clarendon the idea of the San Juan Channel as a compromise in case of failure to obtain Rosario Straits, which might be agreed upon if it should be found the United States had no cotemporaneous evidence to show the real intentions of the two governments. And here I conceive is the secret of the claim for Rosario Straits. The British government never could have seriously expected the United States to agree to that channel as a boundary, but made it a pretence, in the hope of being thus able to obtain a compromise line, by which they would secure the valuable and much coveted island of San Juan.

The motive which induced the first proposition of Lord Palmerston to the United States, to appoint commissioners to mark out the water boundary, is embodied in Mr. Crampton's letter to Mr. Buchanan, of January 13, 1848. Extracts from that letter will best exhibit Lord Palmerston's motive and object in making the proposal. (See extract accompanying correspondence with Captain Prevost, page 40.)

If the foregoing extracts be a sincere expression of the views of the British government in regard to the water boundary at the date of Mr. Crampton's letter, (and there certainly could have been no motive for throwing doubt upon the wording of the treaty if it clearly meant Rosario Straits as the channel,) at that early day they considered the boundary line between the Gulf of Georgia and the Straits of Fuca as less distinctly and accurately defined by the verbal description of the treaty than any part of the boundary line between the Atlantic and Pacific oceans, not hitherto determined and marked. And in this opinion



The general object of the treaty, as declared in the preamble, is that "the state of doubt and uncertainty which has hitherto prevailed respecting the sovereignty and government of the territory on the northwest coast of America, lying westward of the Rocky or Stony Mountains, should be finally terminated by an amicable compromise of the rights mutually asserted by the two parties over the said territory. The "amicable compromise," so far as it relates to a division of the territory in dispute, was an agreement to continue the boundary line along the 49th parallel on the continent, and then a water boundary so as to give the whole of Vancouver's Island to Great Britain. The correspondence of Mr. McLane and Mr. Buchanan shows that the southern end of Vancouver's Island was all that Great Britain refused to yield south of the 49th parallel, and all that the United States were willing to concede. Mr. Benton, the leading senator in favor of the treaty, advocates its ratification with that understanding of its meaning. In his speech on that occasion he says:

The line established by that article [the 1st] the prolongation of the boundary on the east side of the Rocky Mountains, follows the parallel of forty-nine degrees to the sea, with a slight deflection through the Straits of Fuca *to avoid cutting the south end of Vancouver's Island.* \* \* \* When the line reaches the channel which separates Vancouver's Island from the continent, (which it does within sight of the mouth of Fraser river,) it proceeds to the middle of the channel, and thence turning south through the Channel de Haro (wrongly written Arro on the maps) to the Straits of Fuca; and then west through the middle of that strait to the sea. This is a fair partition of these waters, and gives us everything that we want, namely, all the waters of Puget Sound, Hood's Canal, Admiralty Inlet, Bellingham Bay, Birch Bay, and with them *the cluster of islands*, probably of no value, *between De Haro's Channel and the continent.*

In your speech against the ratification, on the same day, and apparently in reply to Mr. Benton, you say:

We have ceded to England the southern cape of Vancouver's Island, an important position which has been heretofore a subject of discussion between the two governments. \* \* \* Judging from the imperfect map I have examined, it cannot be much less than one hundred miles. Upon what principle of right or compromise this cession is to be made I have not heard explained. For myself I know of none but the old rule of might. England demands it, and we yield, and that tells the whole story.

In commenting upon the first article of the treaty, you thus describe the water boundary:

Vancouver's Island is separated from the continent by an arm of the sea, and about two hundred and fifty miles in extent, different portions of which are known by different names. One part is called the Straits of Fuca; another the *Canal de Haro*; another the Gulf of Georgia, and the fourth Queen Charlotte's Sound.

Although differing with Mr. Benton upon the construction that may be placed by Great Britain upon the second, third and fourth articles, and the *proviso* to the first article of the treaty, (to which in your opinion the vagueness of their terms will render them liable when they come to be carried into effect,) there is no disagreement between you as to the meaning of the language of the important article defining the boundary line. Nor does it seem ever to have been considered susceptible of more than one meaning by any person connected with the negotiation and ratification of the treaty on the part of the United States.

The wording of the treaty is the work of the British government. It was in their power to frame the language defining the boundary line so as to have precluded the "state of doubt and uncertainty" in which they have ever since its ratification so zealously labored to involve it; and if Captain Prevost has any foundation for the strong conviction he expresses that the Canal de Haro was originally in the projet of the treaty, and that by a designed alteration it was subsequently left out and the present language substituted to change its meaning, and that the words "the continent" and "Vancouver's Island" were "designedly reversed," with a view to make Rosario Straits "the channel which separates the continent from Vancouver's Island," he places his government in no enviable position.

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Though the instructions of Lord Aberdeen to Mr. Pakenham could not properly be construed into evidence in favor of Rosario Straits, the "peculiar phrasing" of his description of the water boundary line might very naturally have suggested to the Earl of Clarendon the idea of the San Juan Channel as a compromise in case of failure to obtain Rosario Straits, which might be agreed upon should be found the United States had no contemporaneous evidence to show the real intentions of the two governments. And here I conceive is the origin of the claim for Rosario Straits. The British government never could seriously expected the United States to agree to that channel as a boundary, but made it a pretence, in the hope of being thus able to obtain a compromise, by which they would secure the valuable and much coveted island of San Juan.

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it would appear that Mr. Pakenham agrees with Lord Palmerston, so far at least as regards the supposition that Rosario Straits is the particular channel the negotiators of the Oregon convention had in view in employing the word "channel." As this is the only official document in my possession wherein Mr. Pakenham's views in regard to the boundary are expressed or alluded to, I consider it important as establishing the fact that in his "suggestion" to his government he did not claim Rosario Straits to be the boundary channel intended by Mr. Buchanan and himself, the signers of the treaty. The very important part he had in the negotiation and conclusion of the treaty ought to constitute him high authority with the British government in all matters pertaining to the boundary. If Mr. Pakenham had received no other instructions from Lord Aberdeen in regard to the proposition he was authorized to submit to the United States for the settlement of the Oregon question than those Lord Napier exhibited to me, it is not easy to conceive how he could foresee any "serious doubt or difference of opinion" between the two governments in regard to that portion of the boundary now in dispute. But the views of Mr. Pakenham are not sufficiently disclosed in Mr. Crampton's letter to justify an opinion as to the exact nature and extent of his "suggestion" to her Majesty's government in regard to the water boundary. I think it not improbable, however, that the instructions of Lord Palmerston to Mr. Crampton were based upon that "suggestion." If the British government should persist in refusing to adopt the Canal de Haro as the treaty channel, the production of Mr. Pakenham's despatch containing the suggestion referred to may become important to the United States, further to reveal the origin of the British claim to the Haro Archipelago.

After Lord Aberdeen's conference with Mr. McLane, in which he designated the Canal de Haro as the boundary channel he intended to propose to the United States through Mr. Pakenham, he could not, in good faith, have made such a change in the proposition or projet of the treaty as would throw these "numerous islets" on the British side of the line without informing Mr. McLane, so that he might notify his government of the fact, or without instructing Mr. Pakenham to inform Mr. Buchanan of the modification. And unless the despatch of Lord Aberdeen to Mr. Pakenham enclosing the projet of the treaty (which I have not seen) contains instructions which authorized Mr. Pakenham to make such changes in the projet as would throw the Haro Archipelago on the British side of the line; and unless Mr. Pakenham made such changes, and informed Mr. Buchanan that he had done so, the proposition of the British government, as explained by Lord Aberdeen to Mr. McLane, must (in good faith) have remained unaltered in its meaning, and the projet of the treaty must have been submitted to Mr. Buchanan as it was received from Lord Aberdeen. That Lord Aberdeen never informed Mr. McLane of any such designed alteration, and that Mr. Pakenham never communicated to Mr. Buchanan that any such alteration was made in the projet of the treaty, either by Lord Aberdeen or himself, is evident from the fact that Mr. McLane's letter of May 18, explanatory of the intended proposition, was transmitted to the Senate with the projet of the treaty, when the President asked the previous advice of that body in regard to its acceptance, and also from Mr. Buchanan's letter to Mr. Bancroft of December 28, 1846, hereinbefore quoted. As Rosario Straits, therefore, cannot be claimed as "the channel," either upon the literal wording of the treaty, or upon the intentions of the "actual negotiators," from the contemporaneous evidence of Lord Aberdeen, Lord Palmerston, or Mr. Pakenham, the highest British authority upon the subject of the treaty, I am at a loss as to the source from which the Earl of Clarendon could have obtained the information he "officially" communicated to Captain Prevost that the British government contemplated Rosario Straits as the treaty channel.

In preparing the draught of joint instructions which accompanies Mr. Crampton's letter, the British government, with an apparent air of frankness, and even

city, did not neglect the opportunity of so wording it as to secure to lives every possible advantage that could be derived from a one-sided construction of the first article of the treaty, including the *proviso*, in the event of the United States being found ignorant of or indifferent to their territorial rights in respect to the Haro Archipelago. The instructions in regard to matters of detail, respecting the mode of marking the line, (which should more appropriately be left to the commissioners,) are so burdensomely minute and verbose as almost to hide from view the objects to be gained. The following paragraph expresses the gist of the whole document, so far as relates to the boundary

part of the channel of the Gulf of Georgia which lies nearly midway between the thirty-eighth and forty-ninth parallels of north latitude, appears by Vancouver's chart to be marked by numerous islands, which seem to be separated from each other by small and narrow channels, as yet unexplored; it has therefore been mutually determined between the governments of Great Britain and the United States, in order to avoid the difficulties which would probably attend the exploration of all these channels, that the line of boundary shall be drawn along the middle of the wide channel to the east of those islands, which was laid down by Vancouver, and marked with soundings as the channel which had been used and used by the officers under his command. You will find the line thus described in red, in the copy from Vancouver's chart hereto annexed.

On an examination of the Admiralty chart of "Vancouver Island and the Gulf of Georgia," published February 28, 1849, and compiled from the surveys of Galiano and Valdes in 1792, Vancouver in 1793, and Captain Kellet, R. N., in 1847—although some parts of the space between the continent and Vancouver's Island do not appear to have been minutely surveyed—it will be found that the Canal de Haro, as far as it is laid down with soundings, is strikingly represented as the channel which would give "the whole of Vancouver's Island and its harbors to Great Britain," while its great width and soundings show it to be by far the largest channel connecting the Straits of Juan de Fuca with the Gulf of Georgia. Although the chart was not published a year after the date of Mr. Crampton's letter, the results of the survey are no doubt in possession of the admiralty as soon after the completion of the survey as the work could be plotted. If I may judge by the survey conducted with this commission, it is customary for the surveyors of the British government to forward to the admiralty from time to time the plotting and sketches of their work as it progresses; and it is reasonable to suppose that it was the case at the time Captain Kellet was engaged in the survey of these waters. The survey does not appear to have been carried on beyond the sailing season of 1847, which generally closes about the 1st of October on account of the constant rains after that period. Why the survey was discontinued, or why the time was consumed in pushing it into American waters, as much as Hood's Canal, which might have completed the Canal de Haro, can only be explained by the supposition that any further "detailed knowledge of the parts" did not promise to be such as the British "government had been led to expect"—probably by the Hudson's Bay Company. I send herewith a copy of the chart above referred to.

Her Majesty's government seemed also to be of opinion that a naval officer of scientific attainments and *conciliatory character*, appointed on the part of the British government, would be sufficient for the purpose of marking out that part of the boundary which they considered as the least distinctly and accurately defined by the verbal description of the treaty of any part of the line dividing the United States and the British possessions. Before sending out these officers as commissioners, her Majesty's government were of the opinion that they should be instructed as to the particular channel through which the water-boundary line is to run, considering it to be a question turning upon the *interpretation of the treaty*, rather than upon local observation and survey. The

\* Copy of the draught will be found on page 42.

argument presented in favor of Vancouver (or Rosario) Straits, it has already been shown, was without any foundation in fact, and had no weight with Mr. Buchanan when presented. I mention it now as evincing at that time an apparent disposition on the part of the British government to carry the treaty into effect according to the *intentions of the negotiators of the treaty*, and not according to an inversion of the meaning of the language of the treaty. And here I beg to call attention to the simple manner in which her Majesty's government destroys the argument founded upon the "peculiar wording" of the treaty. The "channel" is spoken of in Mr. Crampton's letter three different times as "the channel *between* Vancouver's Island and the continent." I would also call attention to the construction of the word "southerly" by the British government in Mr. Crampton's letter. Captain Prevost insists that it must be interpreted in a strictly nautical sense; upon which he raises an objection against the Canal de Haro, because, for a part of its course, it runs in a westerly direction. Mr. Crampton says the treaty "declares that the line shall run *down* the channel which separates the continent from Vancouver's Island." This natural construction of the word "southerly" shows that in introducing it in the projet of the treaty, it was simply to indicate on the map that the Pacific Ocean was to be reached by drawing the line *down* instead of *up*, so as to give the whole of Vancouver's Island to Great Britain instead of to the United States. It is the common sense reading of the treaty. Mr. Crampton urges, with much zeal, the adoption of Vancouver's or Rosario Straits as the channel, before the commissioners go out, as otherwise much time might be wasted in surveying the various intricate channels formed by the numerous islets between Vancouver's Island and the main land, and apprehends that some difficulty might arise in deciding which of those channels ought to be adopted; and in doing so, he speaks of it as the main channel marked on Vancouver's chart, although the Canal de Haro is far wider on that chart. He acknowledges that some objection might reasonably be made to its adoption by the United States, as being *somewhat nearer* to the continent than to Vancouver's Island. Captain Prevost, on the contrary, claims it especially on the ground that it is the *nearest* channel to the continent; that the language of the treaty was peculiarly worded to designate it as the boundary channel, and even that the projet of the treaty was "*designedly altered*" for the purpose of transferring the proposed boundary line from the channel nearest Vancouver's Island to the channel nearest the continent.

I have already adverted to the strong impression made upon the mind of Captain Prevost that the projet of the treaty was designedly altered by omitting the Canal de Haro for the purpose above specified, and quoted the argument and evidence he advanced to support the correctness of his conclusions. The supposed reasons for altering the boundary channel are stated by Captain Prevost as follows :

It is quite possible that in viewing the boundary as passing through the Canal de Haro some objections might have been made to the nearness of some of the islands to the Vancouver's Island, and as the objections did not apply with equal force to the continent, and as the islands between the two were deemed, according to Mr. Benton, to be barren, rocky, and valueless, it is not at all improbable that the slight deviation in the line would be conceded without difficulty, and might be considered too trivial, considering the important interests at stake at the time, for public discussion or reference.

Considering that the average width of the Canal de Haro is nearly two miles greater than Rosario Straits, the argument upon which the supposed alteration of the boundary channel is based is not very forcible.

The proposal made by Lord Palmerston to Mr. Buchanan for the appointment of commissioners was subsequently renewed at various times by the British government through Mr. Crampton, until Congress, in 1856, authorized the organization of the commission.

Crampton, in his letter to Mr. Marcy, of February 9, 1856, (the Earl of Clarendon then being secretary of state for foreign affairs,) says :

It has been a subject of regret to her Majesty's government that, for causes upon which it is unnecessary to dwell, no appointment of commissioner has up to the present time been made by the government of the United States, and I am now instructed again to press the matter upon their earnest attention. Should it appear probable, however, that this proposal might be met by the government of the United States without further difficulty or delay, I would again suggest the expediency of the adoption by both governments of the channel of the Strait of Juan de Fuca as the only known navigable channel by Vancouver as that designated by the treaty. It is true that the island of San Juan, and *perhaps some others* of the group of *small* islands which the bay of Georgia is studded, would thus be included within the British territory ; on the other hand, it is to be considered that the islands in question are of very small value, and that the existence of *another navigable channel* broader and deeper than that laid down by Vancouver, by the adoption of which some of these islands *might possibly* fall within the jurisdiction of the United States, is, according to the reports of the most recent navigators in that region, *extremely improbable* ; while, on the other hand, the continued existence of a zone of doubtful jurisdiction in countries so situated as Washington Territory and Vancouver's Island is likely to give rise to a recurrence of acts of a similar nature to those to which I have had the honor of calling your attention, and which I have no doubt would not be more deplored by the government of the United States than by that of Great Britain.

From January 13, 1848, to February 9, 1856, at different times, Mr. Crampton, in the direction of Lord Palmerston and the Earl of Clarendon, urged the adoption of Vancouver or Rosario Straits, upon the ground that it was the only known navigable channel at the time the treaty was adopted—the British government taking it for granted apparently that the United States were perfectly ignorant of the existence and value of the group of islands between that channel and the Canal de Haro—and utterly ignoring the existence of the latter, the channel bounding Vancouver's Island. The small islands are studiously depreciated as of "little or no value;" and, by way of apology for proposing to them on the British side of the boundary line, the United States are gravely informed that the only large and valuable island in the group, called "Whidbey," would, *of course*, belong to them. A glance at the map will show the duplicity of the British government in leaving to the United States the island of Whidbey, and their motive for proposing naval officers of *conciliatory character* as commissioners to mark the boundary.

In my correspondence with Captain Prevost I repeatedly called his attention to the views of his government, as expressed in Mr. Crampton's letter of January 13, 1848, in opposition to those which he brought forward at this late day, but I failed to draw any response from him on the subject, or even the slightest allusion to the letter. Although Captain Prevost remained perfectly silent in regard to it, I had reason to believe that the spirit which dictated that letter actuated the British government, and, if I mistake not, the instructions which Captain Prevost received for his guidance embodied many of the details therein contained. It was not, however, until after our discussion had closed, and I had reached Washington, that I first saw Mr. Crampton's letter of February 9, 1856, to Mr. Marcy, written under the instructions of Her Majesty's government, again pressing the matter of the water boundary upon the earnest attention of the United States government, and again urging the adoption of Vancouver or Rosario Straits on the same grounds as those suggested in 1848, with the additional consideration, "that the *existence of another navigable channel broader and deeper* than that laid down by Vancouver is, according to the reports of the most recent navigators in that region, *extremely improbable*." Independent of the old surveys of the Spanish navigators and Vancouver, and the modern surveys of Wilkes and Kellet, proof to the contrary is furnished by the still more recent labors of the United States Coast Survey. In the years 1853 and 1854 the Canal de Haro and Rosario Straits and their approaches were surveyed, and a chart of the same on a large scale was published with the annual report of the Superintendent of the United States Coast Survey for the year 1854.

It seems strange that the British admiralty in 1856 should have been ignorant of this survey and chart, considering the watchfulness of the Hudson's Bay Company authorities on Vancouver's Island, the vigilance of Mr. Crampton at Washington, and the general dissemination of the Coast Survey reports. But whether the British government were or were not in possession of the information the chart furnishes in relation to the two channels, the additional reason urged by Mr. Crampton for the prompt adoption of Vancouver's Channel is none the less an acknowledgment that the proof of the existence of a *broader* and *deeper* channel should definitively settle the question of the boundary.

The survey referred to was made by direction of President Pierce, as will be seen by the accompanying copy of a letter from Mr. Marcy to the Secretary of the Treasury, dated June 2, 1853. I am not aware of the immediate cause of this survey, but as the British government had, on the occasion of each new administration after Mr. Polk's, renewed the effort to have the water boundary settled by the adoption of Vancouver's Channel, I presume that Mr. Marcy's attention was also called to the subject by the British government. There may be a letter from Mr. Crampton on file in the department written at that period, and, perhaps, other documents not hitherto published explaining the action of the department at that time in relation to the boundary. Senate document No. 251, Report Com., thirty-fourth Congress, first session, contains an estimate for a survey of the water boundary transmitted by Mr. Marcy to Mr. Hunter, chairman of the Finance Committee of the Senate, dated July 15, 1854; and also a communication to Mr. Mason, chairman Committee on Foreign Relations, dated February 18, 1856; by which it appears that the President's annual message of 1855 recommended an appropriation for the survey of the northwest boundary.

The present commission was authorized by act of Congress August 11, 1856, and in the summer of 1857 met the British Water Boundary Commission at Vancouver's Island. In October of that year the joint commission convened at this place for the purpose of determining the boundary line between the continent and Vancouver's Island. The discussion ended in a disagreement as to "the channel" through which the boundary line should run from the Gulf of Georgia to the Straits of Fuca. The principal arguments and evidence on both sides of the question are referred to in the preceding pages. The correspondence embodying the whole discussion will show that the disagreement did not result from any inherent difficulty in the question, but from the assumption on the part of the British commissioner of an infallible interpretation of the treaty, by refusing to admit cotemporaneous evidence of the intentions either of his own government or that of the United States to have any weight with him.

The cotemporaneous evidence which I produced and exhibited to him to show the fallacy of his interpretation of the treaty and the correctness of mine, to say the least, proved his interpretation to be a studied misconstruction of the word "southerly," (so as to exclude the Canal de Haro from the terms of the treaty,) and a disingenuous inversion of the real meaning of "the channel which separates the continent from Vancouver's Island," to secure the group of islands between the Canal de Haro and Rosario Straits to the British government.

Up to the period of the meeting of the joint commission, the Canal de Haro and Rosario Straits were the only channels that had ever been mentioned in connection with the question of the boundary; but before I left Washington for this coast, in the spring of 1857, in an interview I had with Lord Napier, I saw an indication that another channel, in the shape of "an amicable compromise," was likely to be proposed before the matter was settled. I was, therefore, not altogether unprepared, however much reason I might have had to be surprised, when Captain Prevost, having failed to convince me of the infallibility of his interpretation of the treaty and the utter worthlessness of my own, (wishing it at the same time to be "distinctly understood" that he was "induced thereto by



ange of opinion on any one point,") announced that he conceived it had been "our positive, as well as our conscientious duty, to endeavor, in a conciliatory spirit and by mutual concession, to settle the matter." Having seen "a way by which" he could, "in part, meet my views without any gross violation of the terms of the treaty," he proposed that we should consider the whole space between the continent and Vancouver's Island "*as one channel*," and run the "*channel through the 'middle' of it*, in so far as islands will permit." In submitting the proposition he says: "I make the present offer without committing either government or myself, or any other person, to a renewal of it at any subsequent period, should it not now be accepted." It is unnecessary to say that I declined entertaining such a proposition. I have reason to believe that the offer, in some form or other, will be renewed by the British government, notwithstanding the threatened penalty in the event of a non-compliance on my part. It is not at all improbable that a new reading of the treaty will be resorted to, by which the *whole* space between the continent and Vancouver's Island will be interpreted to be "the channel which separates the continent from Vancouver's Island."

If the British government should propose to the United States such a reading of the treaty, it would be with the view of securing possession of the island of San Juan, and of destroying the unity of the group of islands so important to the United States in a military point of view. If, however, the "generally-accepted principle" in regard to the *main* channel be adhered to, the line would run, as heretofore claimed by the United States, through the Gulf of Georgia and Canal de Haro, the two channels which, in connection, constitute the main channel between the forty-ninth parallel and the Straits of Fuca, and under such a condition there might *appear* to be no objection to adopting the whole space between the continent and Vancouver's Island as "the channel" of the treaty.

But there is another view of the question to be taken into consideration before adopting this reading of the treaty. Even though the line may be carried through the middle of the Gulf of Georgia and Canal de Haro, whether the whole space or a particular channel be considered "the channel" of the treaty, there may be some difference in the effect of the *proviso* to the first article, according to the interpretation to be placed upon "*the channel*." The proviso declares "that the navigation of the *whole of the said channel* and straits south of the forty-ninth parallel of north latitude remain free and open to both parties."

Had Rosario Straits been agreed to by the United States and adopted as "the channel" of the treaty, there can be no doubt that the British government would have so construed the proviso as to confine the navigation of American vessels to that particular channel; and a similar construction of the proviso I presume will be applied by the United States to British vessels, if the Canal de Haro be adopted as "the channel."

If, however, the whole space between the continent and Vancouver's Island be considered "the channel which separates the continent from Vancouver's Island," under the proviso the navigation of the whole of its waters will be "free and open to both parties." And, according to the views of the British government, as recently indicated by the British commissioner at a meeting of the joint commission, every harbor, cove, and inlet on the continental side of "the channel" and straits may be claimed as part of "the channel," and consequently free and open to both parties."

I transmit herewith a copy of the record of the proceedings of the meeting referred to, which was convened for the purpose of definitively fixing and marking, by suitable monuments, certain important points, therein specified, at and near the western terminus of the boundary line on the continent, viz:

1st. The point where the forty-ninth parallel strikes the western coast of the



continent or the eastern shore of the Gulf of Georgia, on the small peninsula of Point Roberts, a few miles south of Fraser's river.

2d. The point where the forty-ninth parallel strikes the eastern shore of Point Roberts or western shore of Simiahmoo Bay, about three miles east of the first point.

3d. The point where the forty-ninth parallel strikes the eastern shore of Simiahmoo Bay, fifteen miles east of the first point.

Captain Prevost expressed his readiness to adopt the points as determined by the astronomers of the joint commission; but when I proposed to mark the *first point* as the *initial point* of the land and water boundary, it being the common point where the forty-ninth parallel intersects the western coast of the continent and the eastern shore of the *channel* which separates the continent from Vancouver's Island, Captain Prevost "declined entering into any discussion as to which was or was not the initial point," on the ground, as he stated verbally, that the whole question of *the channel* was now in the hands of his government. Notwithstanding the reserve of Captain Prevost, enough transpired at the meeting to disclose the pretence of the British government that the eastern shore of Simiahmoo Bay, *on the forty-ninth parallel*—entirely within the continent, and fifteen miles from its western coast—is the eastern shore of "the channel which separates the continent from Vancouver's Island." While Captain Prevost's refusal to agree to an initial point hinged upon the question of "the channel," I could not agree to any joint determination of the points in question.

The principal motive of the British government in attempting to push the initial point of the water boundary fifteen miles to the eastward of its true position is, I presume, to bring "the middle of the channel" (the western termination of the boundary line on the forty-ninth parallel, and its deflection, "thence southerly" down the channel) as far from Vancouver's Island as possible, in the event of their being successful in obtaining the consent of the United States to consider the whole space between it and the continent as the channel of the treaty. The *middle* of the channel in such case would be brought at the forty-ninth parallel, some miles nearer the continent. It is more than probable, however, that they are not uninfluenced by the increased privileges which they would acquire under the proviso by this wide construction of "the channel" at the forty-ninth parallel.

Although there is no special reference in my instructions to the *proviso* of the first article, nor has it any *apparent* connection with the true determination of the boundary line, yet, as under the act of Congress authorizing the organization of the present commission, I am commissioned "to carry into effect the *first article* of the treaty of June, 1846," I deem it my duty to keep its terms in view in consideration of its intimate connection with the subject of "the channel" in all its bearings, and of its susceptibility to a latitudinous construction by the British government, always on the alert to take advantage of the vagueness or generality of the terms of a treaty.

If the views of the British government in relation to the extent of "the channel," as developed in regard to it at this parallel, should be considered as tenable and be adopted by the United States, as far as I can judge all the inland waters between the continent and Vancouver's Island, south of the forty-ninth parallel, including all their arms and branches as far south as Puget Sound, would be free and open to the navigation of British vessels. Of course the harbors on Vancouver's Island (few in number) would be equally open to the navigation of American vessels.

Whether such is the object the British government have in view in the point they are disposed to make in regard to Simiahmoo bay, I am unable to say; but from the caution manifested by the United States in the correspondence between Mr. Buchanan and Mr. McLane, on the subject of "free and open ports," I do not think such a liberal interchange of ports would be in accordance with

their views and policy. The debate between yourself and Mr. Benton on this very proviso indicates your apprehensions that Great Britain would construe it so as to exclude American vessels from the free and open navigation of the waters north of the parallel, so as to prevent free egress and ingress to and from the ocean in that direction. I have not a copy of your remarks at present with me, and do not recollect how far they touched upon any other question than that great right of navigating throughout its whole extent a public channel like that between the continent and Vancouver's Island.

The "offer" made to me by Captain Prevost to consider the whole space between the continent and Vancouver's Island *as one channel*, and to run the line *through the middle of it*, in so far as islands will permit, when brought to plain terms, is a proposition to divide the group of islands east of the Canal de Haro, between the United States and Great Britain, so as to secure to the latter the island of San Juan. In accomplishing such a division of the rightful territory of the United States, the boundary line would run from the forty-ninth parallel through the Gulf of Georgia, through a part of the Canal de Haro, and through the channel east of San Juan Island. The red line on one of the accompanying sketches of the admiralty chart indicates the proposed compromise channel the British government have so much at heart, and which will probably be again proposed to the United States. Independent of the preposterousness of such a proposition in other respects, it is not a suitable channel for a boundary between the United States and Great Britain, with such channels as the Canal de Haro and Rosario Straits in its vicinity. The relative widths of the channels are as follows :

The maximum width of the Canal de Haro, about.....	6½ miles.
The maximum width of Rosario Straits, about .....	4 "
The maximum width of San Juan Channel, about.....	2 "
The minimum width of Canal de Haro, about.....	2½ "
The minimum width of Rosario Straits, about.....	1½ "
The minimum width of San Juan Channel, about.....	½ "

All of these channels are deep; the Canal de Haro being much the deepest. Rosario Straits has at its northern entrance, directly in the way of a boundary line, a large shoal, the least water about three fathoms. It has been the great object of the British government and Hudson's Bay Company to secure the island of San Juan, perhaps as much to keep the United States at a distance from Vancouver's Island, as for the intrinsic worth of the island itself; though it is valuable, and by far the finest in the group. It has an area of about 55 square miles; and it has an excellent harbor at its southeast corner. The great value of the group of islands, however, consists in its strong military position. It is the key to the Gulf of Georgia, north, and Straits of Fuca south of it. But a division of the sovereignty of the islands would destroy their military importance. Without San Juan the remainder of the group would be comparatively unimportant to the United States. The possession of it by Great Britain would answer all their purposes, and they would willingly give up the rest of the group for that single island.

Mr. Bancroft, in his letter of August 4, 1848, mentions a conversation with Lord Palmerston, in which the latter "spoke of the propriety of settling definitively the ownership of the several islands, [between the continent and Vancouver's island,] in order that settlements might not be begun by one party on what properly belonged to the other."

In Senate Document No. 251, (hereinbefore referred to) will be found a letter from Governor Stevens to Governor Douglas, dated May 12, 1855, acknowledging the receipt of a communication from the latter, in which is found the following paragraph :

You say the "island of San Juan has been in the possession of British subjects for many years, and it is, with the other islands in the Archipelago de Haro, declared to be within the

jurisdiction of the colony and under the protection of British laws. I have also the order of her Majesty's ministers, to treat those islands as parts of the British dominions."

I do not know at what period Governor Douglas received these orders, nor whether they were communicated to the United States by the British government. As nearly as I have been able to learn, the island of San Juan was first occupied in 1852, by the Hudson's Bay Company, as a sheep pasture, with an agent and a few shepherds to take charge of the property. Previously there was an Indian fishery on the island, probably under the control of the Hudson's Bay Company.

The laws of Oregon and Washington Territories include these islands within their jurisdiction, and some Americans settled upon San Juan in 1853; but feeling insecure from Indian attacks they soon withdrew. A deputy collector of the United States has resided on the island during a part of the time, and is there now. By reference to Senate Doc. No. 251, it will be seen that in 1855 a collision of jurisdiction took place. The sheriff of Whatcom county levied taxes upon the Hudson's Bay Company's property, which the agent refused to pay, on the ground of his being a British subject, acknowledging no authority except that emanating from his own government. The property was seized and sold for the payment of the taxes; and a claim for damages is now before the department, amounting to near three thousand pounds. I append herewith an extract from a report of Captain Alden, United States navy, to the Superintendent of the Coast Survey, in 1853, by which it will be seen that as early as July, 1853, Governor Douglas assumed authority over Lopez Island, one of the Haro group.\* Until the line is definitively settled there is a constant liability to collisions of jurisdiction.

The first step in the encroachments of the British government upon this part of the territory of the United States, if Mr. Bancroft be correct in his supposition, originated in the desire of the Hudson's Bay Company to possess these islands. The decided position taken by him in regard to the Canal de Haro for a time checked any attempt on the part of the British government positively to claim Rosairo Straits as the boundary. With much caution, and by careful approaches, this was at length attempted in 1848, but failed. The government then, it seems, gave orders to Governor Douglas to consider the group of islands as part of the British dominions.

In a previous part of this communication, I referred to the fact that the maps of the northwest coast, extant at the date of the treaty, represented that part of the space between the continent and Vancouver's Island, immediately north and south of the 49th parallel, as free from islands, and, consequently, with but *one channel*; and called attention to the maps of a later date, on which the coast of Vancouver's Island is thrown further to the west, and an extensive archipelago substituted.

The chart of the Coast Survey published in 1854 is intended to represent the whole space between the continent and Vancouver's Island, in the vicinity of and south of the 49th parallel, but principally the Canal de Haro and Rosario Straits, and the neighboring archipelago. In executing this survey for the State Department, it does not seem to have occurred to the officers of the Coast Survey to make an exploration of the archipelago along the coast of Vancouver's Island, immediately south of the 49th parallel. Its existence was, however, then becoming known, and since the discovery of coal at Nanaimo, on Vancouver's Island, a short distance north of the 49th parallel, the Hudson's Bay Company's vessels generally take one of the inner channels in going from and returning to Victoria, thereby saving a great distance, and avoiding rough seas. Captain Alden, in the *Active*, on one occasion passed through one of the inner channels from Nanaimo, connecting with the Canal de Haro, as they

all do, at about latitude  $48^{\circ} 40'$ . The sketch of the archipelago he obtained from the Hudson's Bay Company (to which I have already referred) was probably made by the captains of the two small steamers, and other small vessels belonging to the company, which for many years have navigated these waters. You will observe on the Coast Survey chart that the inner channel is designated a "channel for small steamers," probably from the fact that none but small steamers had then sailed through it, or from the indisposition of the Hudson's Bay Company to encourage the exploration of the archipelago. It has been the general impression hitherto that the interior navigation was not well adapted to vessels of a large size, and such was the impression when I first arrived here. Indeed, little or nothing appeared to be known about the islands, or channels between them. There are probably difficulties in the way of large vessels getting out of the inner channel into the open gulf at the northern extremity, or at points between it and the Canal de Haro; the openings between the islands nearest the Gulf of Georgia being narrow and the currents very rapid. Nevertheless, upon the discovery of gold on Fraser River, steamers of good size found passages through those islands, in going from Victoria to the mouth of the river by the Canal de Haro, that saved considerable distance, and were convenient in avoiding rough weather in the open gulf. There is a passage, (about two or three miles in length,) almost due south from the "middle of the channel" at the 49th parallel, which would carry a line into the Canal de Haro, so as to obviate Captain Prevost's objection to the westerly bend in the course of the Canal de Haro at its northern extremity. But as the passage is narrow, less than half a mile wide, though perfectly safe and convenient, I did not think it a proper channel to propose for a boundary between the United States and Great Britain, although its average width is very little less than the San Juan Channel at its entrance into the Straits of Fuca. With the exception of this passage, I had not, at that time, been within the archipelago, and had no further idea of the true character of its channels. The passage alluded to runs through what appears on the map as Saturna Island. I made a hurried exploration of the archipelago in the steamer *Active* in September last, and was surprised to find such wide and deep channels. The opening through which we emerged from the inner channel into the Gulf of Georgia, in the vicinity of the 49th parallel, is not wide, (about half a mile,) and some years since, in passing through it, Her Majesty's steamer *Virago*, commanded by Captain Prevost, struck a rock. I saw enough, however, to satisfy me that the inner channels are sufficiently capacious for vessels of the largest size. I do not think there are any islands as large as some of those in the Haro Archipelago, but I may be mistaken. They are generally small, rocky and barren, though highly picturesque in appearance. In the division of labor between the United States and British commissions, the survey of this archipelago devolved on the latter, and we found Captain Richards, with Her Majesty's surveying steamer *Plumper*, actively engaged upon it. He continued the work until the rainy season set in and closed his operations for the year. This survey will give a new aspect to the map of this part of the space between the continent and Vancouver's Island, though probably it will not cover a greater number of square miles than the Archipelago as laid down on the Coast Survey chart. The large islands as there represented will be broken up into smaller ones, and greatly increased in number. The island of Saturna will be divided into three or more islands, embracing a splendid harbor large enough to accommodate the navy of Great Britain. The passage connecting the Gulf of Georgia and the inner channel, through which we passed in the *Active*, (which we named the "Active Passage,") is between the small islands into which Saturna Island is disintegrated.

Although a channel navigable for the largest vessels will undoubtedly be developed by the survey, it is not likely that it will, in all respects, be so situated as to answer the purposes of a boundary channel, as well as the broad

channel of the Gulf of Georgia, which averages twelve miles in width, at and south of the 49th parallel. And yet if the letter of the treaty, and the motive which induced the departure of the boundary line from the 49th parallel, be alone looked at, there can be no doubt that the inner channel may be claimed as the channel which separates the continent from Vancouver's Island, on the same ground with the Canal de Haro, viz: that it is the nearest channel to Vancouver's Island, and that the object of the line in the treaty was simply to avoid cutting off the southern end of Vancouver's Island, and to give the whole of it and its harbors, and nothing more, to Great Britain.

But the Canal de Haro is not claimed alone on the ground of its being the nearest channel to the island; although a legitimate construction of the treaty, the evidence of Mr. McLane is added to support it. It is also the main channel, and, in connection with the Gulf of Georgia, constitutes the main channel from the 49th parallel to the Straits of Fuca. This channel is the true and natural boundary between the continent and Vancouver's Island, and undoubtedly is the channel understood between Mr. McLane and Lord Aberdeen, and intended in their general description of the line. Had the maps of that day represented the space between the continent and Vancouver's Island as it is now known, the Gulf of Georgia and Canal de Haro would have been designated by name in the treaty as the boundary channel, on the "generally admitted principle" that they constitute the "main channel," although it would be conceding to Great Britain, in addition to "Vancouver's Island and its harbors," an extensive group of islands south of the 49th parallel.

At the time they agreed upon the line they were ignorant of, or at least our government was ignorant of the existence of the archipelago in the vicinity of the 49th parallel and immediately south of it. It, therefore, would be questionable policy to claim the channel west of the Gulf of Georgia. It would weaken the position already taken in regard to the main channel, though it may be brought with much force as an argument against the British government, who, without the slightest show of right, have claimed the channel nearest the continent, and all the islands west of it, in the very face of the letter and spirit of the treaty; while the United States, in their attempts to carry the treaty into effect, have waived the rigid construction of the letter of the treaty, and even its plain and obvious meaning by a liberal interpretation of it, as well as the intentions of the negotiators, so as to make the *main channel* the boundary between the territories of the United States and Great Britain. In this respect the contrast between the course of the two governments is most striking.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner N. W. Boundary Survey.*

Hon. LEWIS CASS, *Secretary of State.*

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[Enclosures.]

*Copy of Proposition for Partition of the Oregon Territory, &c.*

The following is a copy of the proposition for a partition of the Oregon territory, in so far as regards the boundary line, which Lord Aberdeen authorized Mr. Pakenham to submit to the United States in his instructions of May 18, 1846, as written down from memory shortly after a careful perusal of the original in the archives of the British legation:

The 49th parallel to the sea coast, thence in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the ocean—thus giving to Great Britain the whole of Vancouver's Island and its harbors.

A. C.



In a despatch of the same date (May 18, 1846) from Mr. McLane to Mr. Buchanan, the foregoing proposition is referred to, and communicated as follows:

The proposition most probably will offer substantially—

First. To divide the territory by the extension of the line on the parallel of forty-nine to the sea—that is to say, the arm of the sea called Birch's Bay; thence by the Canal de Haro and Straits of Fuca to the ocean, and confirming to the United States (what indeed they would possess without any special confirmation) the right freely to use and navigate the strait throughout its extent.

#### ANALYSIS OF THE FIRST ARTICLE OF THE TREATY.

*Analysis of the First Article of the Treaty by a comparison of its terms with the terms of the Proposition contained in the Instructions of Lord Aberdeen to Mr. Pakenham, and the terms of the same Proposition, as stated in Mr. McLane's Despatch to Mr. Buchanan of the same date, (May 18, 1846.)*

<i>Boundary Line as laid down in the First Article of the Treaty of June 15, 1846.</i>	<i>Boundary Line as described by Lord Aberdeen's Proposition, May 18, 1846.</i>	<i>Proposition of Lord Aberdeen in regard to Boundary Line, as described by Mr. McLane, May 18, 1846.</i>
<p><b>FORTY-NINTH PARALLEL TO THE middle of the channel which separates the continent from Vancouver's Island, and THENCE SOUTHERLY THROUGH THE MIDDLE OF the said channel AND OF FUCA'S STRAITS TO THE PACIFIC OCEAN.</b></p> <p><b>PROVIDED, HOWEVER,</b></p> <p><b>THAT THE NAVIGATION OF THE WHOLE OF SAID CHANNEL AND STRAITS south of the 49th parallel of north latitude REMAIN FREE AND OPEN TO BOTH PARTIES.</b></p>	<p><b>FORTY-NINTH PARALLEL TO THE sea coast,</b></p> <p><b>THENCE IN A SOUTHERLY DIRECTION THROUGH THE CENTRE OF King George's Sound AND THE STRAITS OF FUCA TO THE OCEAN—thus giving to Great Britain the whole of Vancouver's Island and its harbors.</b></p>	<p><b>PARALLEL OF FORTY-NINE TO THE sea—that is to say, the arm of the sea called Birch's Bay; THENCE BY the Canal de Haro AND STRAITS OF FUCA TO THE OCEAN,</b></p> <p><b>AND CONFIRMING TO THE UNITED STATES (what indeed they would possess without any special confirmation) THE RIGHT FREELY TO USE AND NAVIGATE THE STRAIT THROUGHOUT ITS EXTENT.</b></p>

NOTE.—The words of the treaty describing the boundary line, and those of Lord Aberdeen and Mr. McLane, are in SMALL CAPITALS when they are identical or nearly so, and in *italics* when they differ but have the same meaning, viz: the channel nearest Vancouver's Island. The language of the proviso and of the statement of its conditions by Mr. McLane is in SMALL CAPITALS so far as it may be considered identical in meaning. Where they appear to differ in that respect, it is in *italics*. It will be observed that Mr. McLane uses the comprehensive word "strait," covering the entire length of the navigable space between Vancouver's Island and the continent from ocean to ocean, and such undoubtedly was the understanding between himself and Lord Aberdeen of the conditions that were to be introduced into the proviso.

A. C.

#### CORRESPONDENCE SHOWING THE EARLY PRETENSIONS OF THE BRITISH GOVERNMENT TO THE ISLANDS EAST OF THE CANAL DE HARO.

*Mr. Boyd to Mr. Buchanan.*

LONDON, October 19, 1846.

SIR: Through channels not strictly official, yet I conceive entitled to implicit reliance, it has recently come to my knowledge that an idea is entertained of certain British subjects of founding a settlement upon Whitby's Island, one of the islands situated within the Straits of Fuca, south of the forty-ninth parallel,



Whether formal application has yet been made to government for its sanction. I am not informed, but there can be little doubt that government has been led to expect such an application, and in this expectation has been thrown into some doubt whether, according to the boundary described in the late Oregon treaty, viz., the mid channel through the Straits of Fuca, Whitby's island would fall within British or American jurisdiction.

Being unauthorized to pursue this subject officially, and obliged, even unofficially, to approach it in a very distant and cautious manner, I am unable to ascertain who are the parties proposing the settlement in question, what would be its nature and objects, or whether the position of Whitby's Island would render its possession a matter of military or political importance.

I deem it proper, however, to mention the supposed possibility that the ascertainment of the main channel through the Straits of Fuca may be a matter of some doubt, in order that if the department be not already in possession of evidence clearly defining this line, it may take the occasion through our cruisers in those seas or otherwise, at once to collect, if desirable, such information as to meet the question whenever it may be formally presented.

It may not be improper, moreover, to report certain inferences from the conversations in which this subject was brought to my notice which it was probably intended I should draw, and expected that I should communicate. The conviction was left upon my mind that the proposed settlement of Whitby's Island is a scheme altogether of private origin, and one which Her Majesty's ministers rather unwillingly find forced upon their attention; that they would deeply regret the occurrence of any difficulty in tracing the channel of the Strait of Fuca, would gladly adopt *any* suitable mode for its ascertainment, and would care much less about the distribution of the small islands in that sea than for the prompt establishment of the treaty line.

I was also led to believe that a ready disposition on the part of our government, now that a point presents itself which is one of mere fact and science, to submit its solution to a proper professional tribunal, might very much serve to correct the unfair interpretation recently put upon the President's refusal to submit to arbitration in a question not suitable for that mode of decision.

I remain, sir, very respectfully, your obedient servant,

J. McHENRY BOYD.

Hon. JAMES BUCHANAN,  
*Secretary of State.*

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*Mr. Bancroft to Mr. Buchanan.*

LONDON, November 3, 1846.

SIR :

While in the Navy Department I caused a traced copy of Wilkes's chart of the Straits of Haro to be made. If not needed in the Navy Department I request that the President will direct it to be sent to this Legation. It is intimated to me that questions may arise with regard to the islands east of that strait. I ask your authority to meet any such claim at the threshold by the assertion of the central channel of the Straits of Haro as the main channel intended by the recent treaty of Washington. Some of the islands, I am well informed, are of value.

Very respectfully, your obedient servant,

GEORGE BANCROFT.

Hon. JAMES BUCHANAN,  
*Secretary of State.*

*Mr. Buchanan to Mr. Bancroft.*

DEPARTMENT OF STATE,

*Washington, December 28, 1846.*

SIR: I have obtained from the Navy Department, and now transmit to you, in accordance with the request contained in your despatch No. 1, [November 3,] the traced copy of Wilkes's chart of the Straits of Haro. This will enable you to act understandingly upon any question which may hereafter arise between the two governments in respect to the sovereignty of the islands situate between the continent and Vancouver's Island. It is not probable, however, that any claim of this character will be seriously preferred on the part of Her Britannic Majesty's government to any island lying to the eastward of the Canal of Arro, as marked in Captain Wilkes's "Map of the Oregon Territory." This, I have no doubt, is the channel which Lord Aberdeen had in view, when, in a conversation with Mr. McLane, about the middle of May last, on the subject of the resumption of the negotiation for an amicable settlement of the Oregon question, his lordship explained the character of the proposition he intended to submit through Mr. Pakenham. As understood by Mr. McLane, and by him communicated to this department in his despatch of the 18th of the same month, it was, "First, to divide the territory by the extension of the line on the parallel of 49° to the sea; that is to say, to the arm of the sea called Birch's Bay; thence by the *Canal de Haro* and Straits of Fuca to the ocean," &c.

I am, sir, respectfully, your obedient servant,

JAMES BUCHANAN.

GEORGE BANCROFT, Esq., &c., &c., &c.

[Enclosure: Chart of the Straits of Juan de Fuca, Puget Sound, &c. By the U. S. Ex. Ex., 1841.]

*Mr. Bancroft to Mr. Buchanan.*

LEGATION OF THE UNITED STATES,

*London, March 29, 1847.*

SIR:

While on this point I ought to add that my attention has again been called to the probable wishes of the Hudson's Bay Company to get some of the islands on our side of the line in the Straits of Fuca. I speak only from my own judgment and inductions from what I observe and hear; but it would not surprise me if a formal proposition should soon be made on the part of the British government to run the line between the two countries at the west from the point where it first meets the water through the straits to the Pacific Ocean.

Such a proposition is in itself very proper, if there be no ulterior motive to raise unnecessary doubts and to claim islands that are properly ours. The ministry, I believe, has no such design. Some of its members would be the first to frown on it. But I am not so well assured that the Hudson's Bay Company is equally reasonable, or that on the British side a boundary commissioner might not be appointed favoring the encroaching propensities of that company.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq., &c., &c., &c.,

*Washington City.*

*Mr. Bancroft to Mr. Buchanan.*

UNITED STATES LEGATION,  
London, August 4, 1848.

SIR:       \*       \*       \*       \*       \*       \*

The Hudson's Bay Company have been trying to get a grant of Vancouver's Island. I inquired, from mere curiosity, about it. Lord Palmerston replied that it was an affair that belonged exclusively to the Colonial Office, and he did not know the intentions of Lord Grey. He then told me what I had not known before, that he had made a proposition at Washington for marking the boundaries in the northwest by setting up a landmark on the point of land where the forty-ninth parallel touches the sea, and for ascertaining the division line in the channel by noting the bearings of certain objects. I observed that on the mainland a few simple astronomical observations were all that were requisite; that the water in the channel of Haro did not require to be divided, since the navigation was free to both parties; though, of course, the islands east of the centre of the channel of Haro were ours. He had no good chart of the Oregon waters, and asked me to let him see the traced copy of Wilkes' chart. He spoke of the propriety of settling definitively the ownership of the several islands, in order that settlements might not be begun by one party on what properly belongs to the other. On returning home I sent him my traced copy of Wilkes' chart, with the note of which I enclose a copy.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq.,  
*Secretary of State, Washington, D. C.*

*Mr. Bancroft to Lord Palmerston.*

90 EATON SQUARE, July 31, 1848.

MY DEAR LORD: As your lordship desired, I send for your inspection the traced copy made for me at the Navy Department of Wilkes' chart of the Straits of Juan de Fuca, Puget's Sound, &c., &c. Unluckily this copy does not extend quite so far north as the parallel of 49°, though it contains the wide entrance into the Straits of Haro, the channel through the middle of which the boundary is to be continued. The upper part of the Straits of Haro is laid down, though not on a large scale, in Wilkes' map of the Oregon Territory, of which, I am sorry to say, I have not a copy, but which may be found in the atlas to the narrative of the United States Exploring Expedition.

I remain, my dear lord, very faithfully yours,

GEORGE BANCROFT.

Viscount PALMERSTON, &c., &c.

*Mr. Bancroft to Mr. Buchanan.*

UNITED STATES LEGATION,  
London, October 19, 1848.

SIR: I send you a map of Vancouver's Island, recently published by James Wyld, geographer to the Queen. It purports to mark by a dotted line the boundary between the United States and Great Britain. You will see that this map suggests an encroachment on our rights by adopting a line far to the east of the Straits of Haro. You may remember that Mr. Boyd, more than two years ago, suggested to you that a design of preferring some such claims existed.\* I inferred, from what I could learn at that time, that this design grew

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\* See letter of Mr. Boyd to Mr. Buchanan, 19th October, 1846, p. 81.

up with the Hudson's Bay Company, and I had no reason to suppose it favored by the colonial secretary.

I am, &c.,

GEORGE BANCROFT.

JAMES BUCHANAN, Esq.,  
Secretary of State, Washington, D. C.

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*Mr. Bancroft to Lord Palmerston.*

108 EATON SQUARE, November 3, 1848.

MY LORD: I did not forget your lordship's desire to see the United States surveys of the waters of Puget's Sound and those dividing Vancouver's Island from our territory.

These surveys have been reduced, and have just been published in three parts, and I transmit for your lordship's acceptance the first copy which I have received.

The surveys extend to the line of 49°, and by combining two of the charts your lordship will readily trace the whole course of the channel of Haro, through the middle of which our boundary line passes. I think you will esteem the work done in a manner very creditable to the young navy officers concerned in it.

I have the honor, &c.,

GEORGE BANCROFT.

Viscount PALMERSTON, &c., &c.

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*Lord Palmerston to Mr. Bancroft.*

FOREIGN OFFICE, November 7, 1848.

SIR: I beg leave to return you my best thanks for the surveys of Puget's Sound and of the Gulf of Georgia which accompanied your letter of the 3d instant.

The information as to soundings contained in these charts will no doubt be of great service to the commissioners who are to be appointed under the treaty of the 15th of June, 1846, by assisting them in determining where the line of boundary described in the first article of that treaty ought to run.

I have the honor to be, with high consideration, sir, &c., &c.,

PALMERSTON.

GEORGE BANCROFT, Esq., &c., &c., &c.

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PROCEEDINGS OF MEETING OF JOINT COMMISSION, AUGUST 16, 1858.

CAMP SIMIAHMOO, SIMIAHMOO BAY.

Meeting of the Joint Commission for determining the Boundary Line between the United States and British Possessions from the point where the 49th parallel strikes the channel which separates the continent from Vancouver's Island to the Pacific Ocean, at the office of the United States Boundary Commission, August 16, 1858.

Present, Archibald Campbell, esq., Commissioner on the part of the United States, &c.; Lieutenant John G. Parke, Topographical Engineers, Chief Astronomer and Surveyor on the part of the United States; William J. Warren, Sec-

retary United States Commission; Captain James C. Prevost, Royal Navy, Her Majesty's first Commissioner, &c.; Captain George Henry Richards, Royal Navy, Her Majesty's second Commissioner, &c.; William A. G. Young, Secretary British Commission.

Mr. Campbell stated to Captain Prevost that his object in calling the present meeting was conveyed in his letter of the 14th instant, and the enclosed report of Mr. Parke, as follows:

UNITED STATES BOUNDARY COMMISSION,  
*Camp Simiahmoo, August 14, 1858.*

SIR: I have the honor to enclose herewith the copy of a communication from Lieutenant Parke, the Chief Astronomer and Surveyor of the United States Boundary Commission, and for the purpose of carrying out the objects therein specified by him, I propose that a full meeting of the Joint Commission be held at this place to fix definitely the points of the boundary line therein referred to, and to make the necessary arrangements for erecting suitable monuments to mark their position.

With high esteem, I have the honor to be, very respectfully, your obedient servant,  
ARCHIBALD CAMPBELL,  
*United States Commissioner.*

Captain JAMES C. PREVOST,  
*British Commissioner H. M. S. Satellite, Simiahmoo Bay.*

UNITED STATES BOUNDARY COMMISSION,  
*Camp Simiahmoo, August 14, 1858.*

SIR: I have the honor respectfully to report that I have determined, by astronomical observations and survey, so much of the 49th parallel of north latitude as is embraced between the eastern shore of the Gulf of Georgia, on Point Roberts, and the eastern shore line of Simiahmoo Bay. These points of the parallel have been marked by stakes or posts, and I would respectfully recommend that a meeting of the Joint Commission be had for the purpose of ratifying and confirming their determination, and taking the necessary steps towards the erection of proper monuments for permanently marking and defining the line. The points marked are as follows:

1. Where the parallel crosses the western face of Point Roberts.
2. Where it crosses the eastern face of Point Roberts; and,
- 3d. Where it enters the timber on the eastern shore of Simiahmoo Bay.

It may be well to add that these marks are all temporary in their character, and should therefore be speedily replaced by permanent solid structures.

I have the honor to be, very respectfully, your obedient servant,  
JNO. G. PARKE,

*Lieut. Corps Topographical Engineers, Chief Astronomer and Surveyor.*  
ARCHIBALD CAMPBELL, Esq.,  
*United States Commissioner, &c., &c.*

Captain Richards having signified his acceptance of the points as determined by Mr. Parke, Captain Prevost expressed his readiness to adopt them, and erect monuments thereat.

Mr. Campbell thereupon proposed that the first of these points referred to by Mr. Parke be suitably marked by the most conspicuous monument, it being the initial point of the 49th parallel on the continent, and being the point where the 49th parallel strikes the eastern shore of "the chanuel which separates the continent from Vancouver's Island."

Captain Prevost stated in reply, that he declined entering into any discussion as to which was or was not the initial point, but he was prepared simply to agree to the points already determined by the astronomers, as points on the line of boundary.

Mr. Campbell objected to any determination of the points in question, without the one on the western face of Point Roberts being established as the initial point of the 49th parallel on the continent.

Commissioners then agreed to adjourn.

ARCHIBALD CAMPBELL  
JAMES C. PREVOST.

## EXTRACT FROM REPORT OF CAPTAIN ALDEN, UNITED STATES NAVY.—COMPLAINT OF AN AMERICAN CITIZEN.

UNITED STATES SURVEYING STEAMER ACTIVE,  
*San Francisco, October 31, 1853.*

\* \* \* \* \*

SIR: It seems, from all I could learn, that the English government has decided that the boundary between us and them should pass down Rosario Strait, and claim, therefore, all the islands west of that line, overlooking the fact that there is a channel much nearer home, better in almost every respect, and, to them, far more convenient. I mean the Canal de Haro.

Their action seems already to have interfered with the peace and comfort of one individual who claims to be an American citizen. He came to me with a long complaint, and the facts, as near as I could get at them, are as follows: His name is R. W. Cussans. He located a tract of land on Lopez Island, and made improvements to the cost of about \$1,500, but owing to the action of the governor of Vancouver's Island, was obliged to abandon everything. He was compelled to take a license to cut timber, (a copy of which I herewith enclose,) and after he had cut and squared some 30,000 feet, was informed that it would be necessary for the vessel, when she took it away, to go to Victoria and clear at the custom-house. He asked me what he should do under the circumstances—go to Victoria or not. I told him if the governor brought force enough to divert his vessel from the course he thought proper to steer, he must submit. I was exceedingly anxious at a subsequent interview with Governor Douglas, to lay this matter before him and obtain his views on the subject, but I was deterred from doing so by the nature of my instructions, and from the fact that I considered the license granted to Cussans as showing conclusively the position assumed by the English government in regard to those islands.

\* \* \* \* \*

With great respect, I am, your obedient servant,

JAMES ALDEN,  
*Lieutenant Commanding, United States Navy,  
 Assistant United States Coast Survey.*

Prof. A. D. BACHE,

*Superintendent United States Coast Survey, Washington, D. C.*

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*Copy of License.*

The bearer, Richard W. Cussans, having given security for the payment of the duty of ten pence sterling for each load of fifty cubic feet of timber, I hereby license you to cut and remove timber on and from any public lands within the district of Lopez Island for six months from this date.

JAMES DOUGLAS, *Governor.*

GOVERNMENT HOUSE, *Victoria, July 25, 1853.*

This license must be produced whenever demanded by me or any other person acting under the authority of the government.

UNITED STATES SURVEYING STEAMER ACTIVE,  
*Rosario Straits, September 11, 1853.*

I hereby certify that the above is a true copy of the original now in my possession, and also that I am an American citizen; have located a tract of land on the island above referred to, believing it to be the property of the United States; and that I have never given any security for the payment of any dues whatever to the British government.

R. W. CUSSANS.

Witness:

ISRAEL C. WAIT,  
*Lieutenant United States Navy.*



*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, June 14, 1859.*

SIR: I regret to be obliged to inform the department that no further progress in the determination of the water boundary has been made since the proceedings of the 3d of December, 1857, when, after a full discussion of the question, Captain Prevost, upon a fictitious issue of disagreement between us as to the meaning of the words of the treaty defining the boundary between the continent and Vancouver's Island, proposed a reference of the whole matter to our respective governments. As I did not concur in this proposal, for reasons which are obvious, whatever reference Captain Prevost may have made to his government was made upon his own responsibility. And it seems to me that, after the lapse of eighteen months, he should be instructed by his government either to adopt the boundary channel according to my interpretation of the treaty, sustained by contemporaneous evidence showing it to be in accordance with the intention of the negotiators, or be provided with counter evidence of equal weight to sustain the correctness of his remarkable construction of the language of the treaty.

Captain Prevost's studious avoidance of the production of *any* evidence showing the understanding of his government as to the boundary channel intended by the treaty, his repudiation of that which I laid before him, proving the absurdity of his interpretation, and his blind adherence to the mere letter of the treaty, as he chooses to construe it, taken in connection with his proposal to split the difference between us by a division of the group of islands, (artfully involved in dispute,) is the very best evidence that his government have not the shadow of foundation for claiming the boundary channel he professes to derive from the "very peculiar wording" of the treaty.

I have recently learned from Captain Prevost that he has not received any instructions from his government upon the subject of the reference made by him "on account of the contrary views entertained by us," nor is he aware when it is probable that he may receive instructions.

Several citizens of the United States have recently settled on San Juan Island, one of the disputed islands, and the nearest to Vancouver's Island. As the Hudson's Bay Company also occupy it, difficulties may be anticipated if the question of the boundary channel be not speedily settled. I would therefore respectfully urge upon the department the importance of calling the attention of the British government to the subject.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, June 21, 1859.*

SIR: In my letter to the department of the 20th of January I referred to the fact that the channels and islands composing the archipelago skirting Vancouver's Island at and immediately south of the 49th parallel had never been accurately laid down on the maps representing the space between the continent and Vancouver's Island, and stated that Captain Richards, Royal Navy, surveyor of the British water boundary commission, had recently been engaged in making a survey of this archipelago, and that as soon as I was furnished by him with a copy of his map I would forward to the department a tracing of the Coast

Survey chart corrected in that particular, and I now have the honor herewith to transmit it accordingly.

I also stated that a general impression had been created that the channels of the archipelago were only navigable for small steamers. It will be seen by the soundings laid down in the accompanying chart that this is an erroneous idea, and that they are navigable for vessels of the largest class. In respect to navigability merely, they are therefore on an equality with the channels claimed or proposed as "the channel" through which the boundary line should be run; while in other respects, with the exception of the *main channel*, the channel of the archipelago *nearest to Vancouver's Island* has the first claim to be considered "the channel which separates the continent from *Vancouver's Island*."

At the time the treaty was concluded the archipelago at the 49th parallel was represented on the maps of that day as a part of Vancouver's Island, and consequently, at and immediately south of the 49th parallel to about latitude 48° 47' there appeared to be but a single channel between the continent and Vancouver's Island. The line contemplated by the negotiators of the treaty must therefore necessarily have been through the middle of that channel (the Gulf of Georgia) until it reached the Archipelago de Haro, not, as asserted by Captain Prevost in his letter of October 28, 1857, to be "the fact that at the 49th parallel there is only *one* navigable channel lying between the channel and Vancouver's Island," but because only one was known to exist at and prior to the date of the treaty. This assertion of Captain Prevost is the more remarkable, considering that in 1853 he, to some extent, explored the channels of the archipelago west of the Gulf of Georgia; and the name of the steamer *Virago*, which he commanded at the time, is indelibly connected with a passage from the Gulf of Georgia to the inner channels near Vancouver's Island. In passing through what the early Spanish navigators named "Portier's Inlet," a little north of the 49th parallel, the steamer encountered a rock, which created some apprehensions for her safety. On the Coast Survey chart the inlet is designated by "Virago Rock," and is generally spoken of as Virago Passage.

The maps in use by the negotiators of the treaty represented the Archipelago de Haro with sufficient accuracy to show that there were several channels connecting the Gulf of Georgia and Straits of Fuca. The literal meaning of the treaty would indicate the boundary channel to be the nearest channel to Vancouver's Island, and it has been satisfactorily proven that such was the intention of the negotiators by the production of contemporaneous evidence, showing the object of the deflection of the boundary line from the 49th parallel to be merely to give the whole of Vancouver's Island to Great Britain, with the undeniable understanding of both governments that, to accomplish this object, the boundary line was to reach the Straits of Fuca through the Canal de Haro. The despatches of Mr. McLane and Lord Aberdeen of May 18, 1846, alone, are sufficient confirmation of this fact; but they are amply sustained by other contemporaneous evidence. Mr. McLane mentions the name of the channel nearest Vancouver's Island, (the Canal de Haro,) where more than one was known to exist, without specially stating the object of its selection. Lord Aberdeen specifies distinctly the object, viz., "to give to Great Britain the whole of Vancouver's Island and its harbors," without naming the channel which would accomplish it.

Before I entered into the discussion of the boundary question with the British commissioner, the language of the treaty seemed to me susceptible of two distinct interpretations, either that "the channel which separates the continent from Vancouver's Island" meant the nearest navigable channel to Vancouver's Island, without regard to its relative size, or that it might mean the *main channel* between the continent and Vancouver's Island.

A careful investigation of the subject, with all the light thrown upon it by the contemporaneous evidence I then possessed, led me to the conclusion that a

combination of these two interpretations would best enable me to carry the treaty into effect, in accordance both with its letter and spirit.

My conclusion was that the Gulf of Georgia and the Canal de Haro constituted the boundary channel understood and intended by the framers and signers of the treaty. If the true interpretation of the treaty be that "the channel" through which the boundary line is to be run is the main channel, the line I have claimed is then the line intended by the treaty. If, however, "the channel which separates the continent from Vancouver's Island" is to be construed as the nearest channel to Vancouver's Island, the line should be run so as to throw the Archipelago, west of the Gulf of Georgia, on the American side of the line.

In admitting the Gulf of Georgia to be "the channel" intended by the treaty, between latitude  $49^{\circ}$  and  $48^{\circ} 47'$ , I did so with some reluctance, as I considered the principle upon which the water boundary was established to be merely to avoid cutting off the southern end of Vancouver's Island, so as to give the whole of the island to Great Britain, and no more. But as the channel within the Archipelago, at the forty-ninth parallel nearest Vancouver's Island, was not considered well adapted to a boundary channel, and indeed was little known, I took the broad view, as the Gulf of Georgia was the main channel, and as at the time of the treaty but one channel was known to be in existence, that I should be carrying the treaty into effect in good faith towards my own government, and most liberally towards Great Britain, by ignoring the Archipelago, so as to place myself in the position of the negotiators of the treaty when they had the maps of the day before them.

The refusal of the British commissioner to adopt the Gulf of Georgia and the Canal de Haro as the boundary channel, together with the additional cotemporaneous evidence I have gathered since my discussion with him in 1857, has caused me carefully to review the conclusion at which I had arrived at that time. I still am of the opinion that if the boundary line had been drawn upon the maps of the day, immediately after the conclusion of the treaty, that it would have been drawn through the Gulf of Georgia and Canal de Haro. But the extraordinary pretensions of the British government that the channel nearest the continent was contemplated by them as the boundary channel of the treaty, and the refusal of the British commissioner to be in the slightest degree influenced by cotemporaneous evidence proving the contrary, it seems to me would justify the United States in claiming the boundary line through the channel nearest Vancouver's Island from the forty-ninth parallel to the Straits of Fuca.

The Gulf of Georgia and Canal de Haro, constituting the main channel, is the natural boundary between the continent and Vancouver's Island, and by far the most convenient in every respect to both governments. This boundary line carries British vessels from the Pacific Ocean to Fraser River, the nearest point of the British possessions on the continent with which they will have any communication, by a route seventeen miles shorter than by Rosario Straits, the channel they claim as the boundary; while between Simiahmoo Bay, Bellingham Bay and Puget Sound, Rosario Straits will be most convenient to American vessels. But between the Pacific Ocean and Point Roberts, [American territory,] the Canal de Haro is equally convenient for American vessels as it is for British vessels bound for Fraser River, a few miles north of it. In no point of view, however, is Rosario Straits necessary for British vessels, unless the Archipelago de Haro become British territory.

The Canal de Haro being the only link in the boundary channel between the forty-ninth parallel and the Straits of Fuca, which has been proven by cotemporaneous evidence, the question is upon what principle was the Canal de Haro understood to be "the channel which separates the continent from Vancouver's Island?" It must have been either because it was the channel nearest to Vancouver's Island, or because it was the main channel. If the former, the Archipelago skirting Vancouver's Island to the forty-ninth parallel belongs to the United States; if the latter, the Gulf of Georgia is the boundary channel, and

this Archipelago belongs to Great Britain. This group of islands is the only one about which any dispute could be got up with plausible show of fairness ; and the liberality of the United States in proposing to adopt such a line as would give it to Great Britain, has hitherto prevented such a dispute and transferred it to the Haro group.

Upon the accompanying map will be found the following lines traced through different channels, viz :

1st. The boundary line contemplated by the treaty, as shown by cotemporaneous evidence, through the middle of the Gulf of Georgia and Canal de Haro, the *main channel* between the continent and Vancouver's Island.

2d. The boundary line claimed by the British commissioner, through the Gulf of Georgia and Rosario Straits, on the pretence that "the channel which separates the continent from Vancouver's Island" means the channel nearest to the continent.

3d. The boundary line proposed by the British commissioner as a compromise, through the Gulf of Georgia, a part of the Canal de Haro, and the channel east of San Juan Island.

4th. The boundary line which might be claimed by the United States in accordance with the letter of the treaty, or by adopting an interpretation of it, so as to carry out the sole object of the deviation of the boundary line from the forty-ninth parallel to the ocean through the Straits of Fuca, viz., to give the whole of Vancouver's Island to Great Britain.

5th. Track of steamers plying between Victoria and Fraser River since the discovery of gold.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS, *Secretary of State.*

## II.—POWERS OF THE COMMISSIONERS.

Letter of Mr. Campbell to Mr. Cass, December 1, 1858, enclosing correspondence with British Commissioner, viz :

Mr. Campbell to Captain Prevost, December 4, 1857.

Captain Prevost to Mr. Campbell, December 8, 1857.

Mr. Campbell to Captain Prevost, December 12, 1857.

Mr. Campbell to Captain Prevost, December 15, 1857.

Enclosing Commission and Instructions.

Captain Prevost to Mr. Campbell, December 22, 1857.

Enclosing Commission and original Instructions.

Mr. Campbell to Captain Prevost, April 14, 1858.

Captain Prevost to Mr. Campbell, June 4, 1858.

Letter of Mr. Cass to Mr. Campbell, June 8, 1859, enclosing copies and extracts of letters, viz :

Mr. Cass to Mr. Dallas, January 17, 1859.

Mr. Dallas to Mr. Cass, February 25, 1859.

Mr. Dallas to Lord Malmesbury, February 5, 1859.

Lord Malmesbury to Mr. Dallas, February 22, 1859.

Extract from additional instructions to Captain Prevost.

Letter of Mr. Campbell to Mr. Cass, August 4, 1859, enclosing correspondence with Captain Prevost, viz :

Mr. Campbell to Captain Prevost, May 18, 1859.

Captain Prevost to Mr. Campbell, May 27, 1859.

Mr. Campbell to Captain Prevost, June 7, 1859.

Captain Prevost to Mr. Campbell, June 23, 1859.

Mr. Campbell to Captain Prevost, July 9, 1859.

Captain Prevost to Mr. Campbell, July 19, 1859.

*Mr. Campbell to Mr. Cass.*

UNITED STATES N. W. BOUNDARY COMMISSION,  
*Camp Simiahmoo, December 1, 1858.*

SIR: I have the honor to request that the accompanying correspondence between Captain Prevost and myself, in relation to our respective powers and instructions, may be filed with the papers transmitted to the department with my report of the 10th of February last.

After the close of my discussion with Captain Prevost, in relation to the boundary channel, I felt I had good reason to believe that our proceedings had been altogether one-sided. While my instructions were so broad as to authorize me to adopt as the boundary any channel which I should be satisfied corresponded with the terms of the treaty, or the intentions of the negotiators of the treaty, it appeared to me, from the course pursued by Captain Prevost, either that his instructions so restricted his powers as to prevent him from adopting the Canal de Haro, or that, in disregard of the rules of international law for the interpretation of treaties, he voluntarily refused to give any weight to the contemporaneous evidence of the intentions of the negotiators of the treaty.

Under these circumstances I deemed it important to know the character of Captain Prevost's instructions, and therefore requested him to furnish me with copies of them. You will perceive, by the enclosed correspondence, that Captain Prevost so far complied with my request as to send me a copy of his commission and original instructions, but withheld the "detailed instructions for his guidance" which his government promises to furnish him "in a subsequent despatch."

I should not have felt that I had a right to call upon Captain Prevost for copies of his instructions, had I not previously been informed by him that he had been provided by his government with a copy of my instructions. From the result of my application, I think it not unfair to infer that the "detailed instructions" contain directions or suggestions which are not entirely consistent with the execution of the first article of the treaty, according to its true intent and meaning.

The boundary line which Captain Prevost, by way of compromise, proposed to run through an intermediate channel, between the two channels respectively claimed as "the channel" of the treaty, certainly could never have been contemplated by either the United States or Great Britain in making the treaty. The adoption, therefore, of such a boundary, instead of "carrying the treaty into effect," would, according to Captain Prevost's views, as well as my own, be a gross violation both of its letter and spirit.

I have the honor to be, very respectfully, your obedient servant,  
 ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, December 4, 1867.*

SIR: At our first official meeting on the 27th day of June last, after examining each other's instructions, it was mutually understood that we were equally invested with *full powers* for determining the boundary line between the United States and British possessions, from its intersection with the eastern shore of the



Gulf of Georgia to the Pacific Ocean. It was upon that understanding that I have since acted in our conferences and correspondence. In our meeting of yesterday, however, it was stated by yourself or secretary that your instructions required you in case of disagreement to propose to refer the matter to our respective governments. This statement, taken in connection with the whole tenor of your correspondence, and the paper submitted by you at our last meeting, has led me, upon further reflection, to apprehend that you were governed by instructions which virtually, if not positively, prohibited you from adopting the Canal de Haro as the boundary channel, without reference to your own judgment thereupon. I will, therefore, be obliged to you to inform me whether or not I am correct in this inference. Not having been furnished with a copy of your instructions, I am unable to come to a satisfactory conclusion upon the subject without calling upon you for the desired information.

I need hardly say that my instructions left me entirely free to adopt that channel which should be found to correspond with the terms of the treaty and the intention of the treaty makers. Having been furnished by your own government with a copy of my instructions, you could not fail to perceive that I was not restricted or confined to any particular channel or channels.

With the highest respect and consideration, I have the honor to subscribe myself your most obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner on the part of the United States for  
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,

*British Commissioner Northwest Boundary, &c., &c., &c.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

*Equimault, Vancouver's Island, December 8, 1857.*

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, which came to hand at 2 p. m. of this day.

2. In reply to your request for certain information as to the extent of my powers as her Britannic Majesty's commissioner for determining the water boundary line under the first article of the treaty between Great Britain and the United States of June 15, 1846, I beg to furnish you with an extract from her Majesty's commission, dated the 18th December, 1856, by which you will perceive that my powers as her Majesty's first commissioner for determining the aforesaid line of boundary are full and entire. This commission was exhibited to you at our first official meeting, when our respective powers were exchanged and found to be in due form.

3. My commission constitutes me her Majesty's "first commissioner for the purpose of surveying, ascertaining and marking out, in conjunction with the commissioner or commissioners appointed or to be appointed by the President of the United States in that behalf, so much of the line of boundary hereinbefore described (referring to a quotation of the first article of the treaty) as is to be traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia;" and it declares, "we do hereby give to our said commissioner full power and authority to do and perform all acts, matters, and things which may be necessary and proper for duly carrying into effect the object of this our commission."

4. You state that the whole tenor of my correspondence and the paper submitted by me at our last meeting has led you upon further reflection to apprehend that



I was governed by instructions which virtually, if not positively, prohibited me from adopting the Canal de Haro as the boundary channel without reference to my own judgment thereupon. The foregoing extract from her Majesty's commission will show you how erroneous such a supposition is. I mentioned at our last meeting that my instructions did point out a course I was to adopt in the event of disagreement. That instructions should be complete and should provide for all contingencies is no more than should be expected. I am directed, in the event of not being able to decide upon a channel upon which we (my colleague and I) may mutually agree, as the one through which the boundary line should run, to propose a reference of the matter to our respective governments.

5. I here beg again most emphatically to repeat what I respectfully conceive is sufficiently evidenced by my previous correspondence, that, with the full and unfettered exercise of my own judgment, I cannot admit that the Canal de Haro can be received as a channel which intrinsically answers to the channel of the treaty, but, that on the contrary, it is my firm and most conscientious conviction, with the same unfettered exercise of judgment, that the channel called the Rosario Strait is the only one that does intrinsically answer to the channel described in the treaty, and that, therefore, the boundary line should be carried through that channel, if the words of the treaty be strictly and literally adhered to.

6. This being my firm conviction, it is not likely that I could accede to your views that the boundary line should be carried through the Canal de Haro, and as you remained firm in your conviction that it should be carried through that channel, it was very evident that we were never likely to fulfil the duties for which we were commissioned so long as each adhered to his own opinion. Following out what appeared to me the only course left, and what seemed the clear path of duty if I wished to execute the trust reposed in me, I voluntarily offered to recede somewhat from my position if you would do the same, and suggested that a line of boundary should be run about midway between the two disputed channels. This proposition you refused to entertain. I therefore had no alternative left me but to propose a reference of the whole matter to our respective governments, which proposition I brought forward at our last meeting.

7. Having thus, I trust, satisfactorily shown you that I have been hampered by no instructions which *deprived me in the slightest* of the full and entire exercise of my own judgment, I beg you will allow me to subscribe myself, with the highest esteem and consideration, your most obedient and humble servant,

JAMES C. PREVOST,

*Her Britannic Majesty's First Commissioner for determining  
the before-mentioned Boundary Line*

ARCHIBALD CAMPBELL, Esq.,

*United States Commissioner Northwest Boundary, &c, &c.*

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*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Fort Townshend, December 12, 1857.*

SIR: I have the honor to acknowledge the receipt this day of your letter of the 8th instant, in reply to mine of the 4th instant.

I regret that instead of an extract from your commission, you did not furnish me with a full copy of that instrument, as well as of other instructions by which you were governed in the performance of your duty as joint commissioner for carrying into effect that part of the first article of the treaty which relates to the water boundary line between the United States and the British possessions. As I am desirous of being placed upon an equal footing with yourself as regards a full knowledge of the instructions severally given to us by our respective gov-

ernments, I would respectfully request that you transmit to me copies of all instructions which have had any bearing upon the course adopted by you in our official intercourse as commissioner on the part of the British government for the determination of the boundary line.

If you desire it I will cheerfully furnish you with a copy of my commission. You already have a copy of *all* the instructions I have received from my government for the performance of my duty as commissioner on the part of the United States.

With the highest respect and consideration, I have the honor to be, very respectfully, your most obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner on the part of the United States for  
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner Northwest Boundary, &c., &c., &c.*

*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Fort Townshend, December 15, 1857.*

SIR: In order that you may be fully informed as to the powers and instructions which have governed me in my action as commissioner on the part of the United States to carry into effect the first article of the treaty of June 15, 1846, I have concluded, without further delay, to furnish you with a copy of my commission, and have the honor to transmit the same herewith.

With the highest respect and consideration, I have the honor to be your most obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner on the part of the United States for  
determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner Northwest Boundary Survey, &c., &c., &c.*

*Mr. Campbell's Commission.*

FRANKLIN PIERCE, President of the United States of America, to all who shall see these presents, greeting:

Know ye, that reposing special trust and confidence in the integrity and ability of Archibald Campbell, I have nominated, and, by and with the advice and consent of the Senate, do appoint him to be Commissioner of the United States, under the act of Congress August 11, 1856, and do authorize and empower him to execute and fulfil the duties of that office, according to law, and to have and to hold the said office, with all the powers, privileges, and emoluments, thereunto of right appertaining unto him, the said Archibald Campbell, Commissioner, to carry into effect the 1st article of the Treaty between the United States and Her Britannic Majesty of the 15th June, 1846.

In testimony whereof I have caused these letters to be made patent and the seal of the United States to be hereunto affixed.

Given under my hand at the City of Washington, the 14th day of [L. S.] February, in the year of our Lord 1857, and of the Independence of the United States of America the eighty-first.

FRANKLIN PIERCE.

By the President:

W. L. MARCY, *Secretary of State.*

*Mr. Campbell's Instructions so far as they relate to the Determination of the Boundary Line.*

DEPARTMENT OF STATE,  
Washington, February 25, 1857.

SIR: The President of the United States, by and with the advice and consent of the Senate, has appointed you the Commissioner on the part of the United States to determine and mark the boundary line between the United States and the British Possessions, as described in the "first article of the treaty between the United States and Her Majesty the Queen of Great Britain and Ireland, of the 15th day of June, 1846."

Enclosed is your Commission and a printed copy of the above-mentioned treaty, as published by this department.

The first article of the treaty describes the boundary line in the words following, viz:

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of Her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean.

Section four of the act passed by Congress August 11, 1856, for carrying the foregoing article of the treaty into effect, directs "that until otherwise provided for by law, the proceedings of the said commission shall be limited to the demarcation of that part of the said line of boundary which forms the boundary line between Washington Territory and the British Possessions."

The same act provides for a chief astronomer and surveyor, and an assistant astronomer and surveyor; a secretary to be appointed by the commissioner, and a clerk to be appointed by the chief astronomer. The employment of such other persons as may be necessary is left to your discretion."

Lieutenant John G. Parke, of the Topographical Engineers, has been appointed Chief Astronomer and Surveyor, and has been directed to report to you. It is not contemplated in the appointment of a chief astronomer and surveyor at all to divide the responsibility which these instructions devolve upon the commissioner. It is not presumed that any difference of opinion will arise, but should that be the case your views are to govern until a decision can be obtained from this department.

Mr. George Clinton Gardner has been appointed Assistant Astronomer and Surveyor, and has been directed to report to you.

You will, with as little delay as possible, organize the commission and prepare a suitable outfit to enable you to perform the duties intrusted to you.

The act above referred to authorizes the President, for the purpose of aiding in the demarcation of the boundary line, "to direct the employment of such officers, assistants, and vessels attached to the Coast Survey of the United States, as he may deem necessary or useful;" and the President has, accordingly, requested the Secretary of the Treasury to give such instructions to the Superintendent of the Coast Survey as will secure his co-operation in the arrangement necessary for the hydrographical portion of the work.

Having completed the organization and outfit, and made the other preparations indicated, you will repair to Fuca Straits via San Francisco, to meet the commissioner on the part of the British government, and proceed with him to determine such portion of the line described in the first article of the treaty as is provided for by the act above cited.

You are required to keep a journal, showing your operations, and will, from time to time, keep this department advised of your progress; and after your arrival on the Pacific coast and the completion of your organization, you will trans-

mit a statement of all persons employed by you, the nature of their occupation, and their compensation.

Upon the completion of your field-work you will return to Washington City and prepare the maps and plans exhibiting your operations, and the report of the result of your labors.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

ARCHIBALD CAMPBELL, Esq.,  
Washington City, D. C.

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*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Esquimalt, Vancouver's Island, December 22, 1857.*

SIR: I have the honor to acknowledge the receipt of your two letters dated Fort Townsend, December 12th and December 15th.

2. In reply to that of the former date, wherein you express your regret that I did not furnish you with a full copy of her Majesty's commission, as well as of all other instructions by which I was governed in the performance of my duty as joint commissioner for carrying into effect that part of the first article of the treaty of 15th June, 1846, which relates to the water boundary between the United States and the British possessions, I must be permitted to express my regret—if not my surprise—that the very full and direct reply I made on the 8th instant to the inquiries contained in your letter of the 4th instant did not convey to you the meaning which I candidly, though most respectfully, conceive it ought to have done. Considering that at our first meeting our powers were mutually examined and found to be in due form and sufficient; considering that Her Majesty's commission was again placed in your hands, and again examined by you, when Captain Richards was introduced to you as Her Majesty's second commissioner; and considering the stage at which we had arrived in the duties assigned to us, I must say that when I received your letter of the 4th instant, it did appear to me to be somewhat out of order that you should, at this period, make a written application to me as to the nature of my powers, and should attempt to cast a doubt upon their scope being equal to your own, so far as the water boundary may be concerned. I, however, refrained from making any comment upon the act, but I readily and directly gave you the full information you asked for. In affording you that information I asserted, in the most straightforward and unmistakable manner, that I was governed by no instructions which would interfere with the full and entire exercise of my own judgment in the determination of the water boundary line, as established by the treaty. I repeated what is to be found constantly affirmed in all my previous correspondence, that I could never *conscientiously* agree to your views as to the Canal de Arro being the boundary channel, nor *conscientiously* admit that it was a channel which answered to the channel determined by the treaty. I know not in what more positive and satisfactory manner I could answer the question you put to me, and could show you that I have not been governed by any prohibitory instructions in my proceedings, and that I have been acting entirely on my own *conscientious convictions* and on my own *free judgment*. In your letter of the 4th instant you asked me a simple question as to whether you were correct in your inference that I had been governed by instructions which prevented me from adopting the Canal de Arro as the boundary channel. In reply, I not only informed you that the inference was erroneous, but, being most anxious to satisfy you of the freedom of my action, I went beyond what you requested, for I furnished you with an extract from Her Majesty's commission which was sufficient to show

that, so long as I was acting as commissioner under that commission, I could not be governed by any instructions which would restrict the exercise of my judgment in the course of my proceedings. Such being the case, you must pardon me for feeling somewhat more than surprise, when I received your letter of the 12th instant, for it appears to me that notwithstanding all this evidence, and notwithstanding these assurances, you would still endeavor to insinuate that I have not been acting, to say the least, independently, in my official intercourse with you. Under such circumstances, I respectfully conceive that, having a due regard to my own position, I should be adopting no more than a natural course, and I should be committing no discourteous act, were I to decline to enter further into the subject; but as I am really desirous to disabuse your mind of any doubts you may have conceived as to my powers being equal to your own, and as I am unwilling to take any step, however much it might be warranted, which would in the least appear as if I wished to avoid furnishing you with any documents or information that you can in reason desire, I am, for the once, content to waive the foregoing considerations, and I therefore enclose to you herewith a full copy of Her Majesty's commission constituting me her first commissioner for ascertaining the line of boundary as before described; and also a copy of the instructions which immediately relate to my duties as commissioner, and which are similar in their character to those furnished me as being the instructions issued to you by your government. I have other instructions, it is true, all more or less connected with the special duties upon which I am employed, both as Her Majesty's commissioner and as captain of one of Her Majesty's ships; but as these instructions neither affect Her Majesty's commission nor have any bearing upon the course I have pursued with regard to the boundary channel, you can hardly with reason require or expect that I should place them in your hands as United States commissioner.

3. After the positive assurances I have already given you, and have again conveyed to you in this letter, that I have been perfectly free and unfettered in my course of action, I think you cannot fail to be satisfied that I have not been governed by prohibitory instructions as to the adoption of the Canal de Arro as the boundary channel; but that, by Her Majesty's commission, I am fully empowered to adopt the channel which shall carry the boundary line, as described in the first article of the treaty, without even the restriction which you mention as governing you, viz: that the said channel shall also correspond to the "*intention of the treaty makers.*" It would therefore seem that I am less confined in the adoption of a boundary channel than you are, for I am at liberty to determine a channel *from the treaty itself*, without encumbering it with a consideration of any additional matter as to the intentions of either party. My commission refers to the *treaty alone*; and so, I think, does yours. I rest my claim to the boundary channel entirely upon the evidence furnished by the first article of the treaty; you, at the outset, grounded your claim upon evidence of which no mention is to be found in the treaty, and which, therefore, cannot be considered as forming part of the treaty; and you have since asserted that you are willing to let the question "*rest entirely*" upon such evidence; therefore, if your claim is to rest "*entirely*" upon evidence, *apart from the treaty*, it evidently cannot in any way rest *upon the treaty*. Under such circumstances there can be but little doubt as to which is the sounder claim of the two, if the treaty itself, and the commissions under which we profess to act, be of any value.

4. In reply to your letter of the 15th instant I regret you should have taken the trouble to furnish me with a copy of your commission as United States commissioner, for I had not attempted to cast any doubt upon your capability of joining with me in the demarcation of the water boundary line under the aforesaid treaty. I was satisfied, at the commencement of our proceedings, that, under your commission, you were sufficiently empowered to act, and therefore I had no desire, at the present time, to receive any renewal of the proof thereof.



Taking this opportunity of assuring you of my consideration and respect, I beg you will allow me to subscribe myself

Your most obedient and humble servant,

JAMES O. PREVOST,

*Captain H. B. M. Ship Satellite and H. M. First Commissioner  
for determining the Line of Boundary, as before described.*

ARCHIBALD CAMPBELL, Esq.,

*United States Commissioner for the Northwest Boundary, &c.*

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*Captain Prevost's Commission.*

[L. S.]

VICTORIA R.

Victoria, by the Grace of God Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith, &c., &c., &c. To all and singular to whom these presents shall come, greeting!

Whereas, by the first article of the treaty concluded and signed at Washington on the fifteenth day of June, one thousand eight hundred and forty-six, between us and our good friends, the United States of America, it was stipulated and agreed that from the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between our territories and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties. And whereas the line of boundary described in the said article has never yet been ascertained and marked out, and it appears to us and to our said good friends, the United States of America, expedient to appoint commissioners for that purpose: Now, know ye, that we, reposing especial trust and confidence in the diligence, skill, and integrity of our trusty and well-beloved James Charles Prevost, esquire, a captain in Our Royal Navy, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him Our first Commissioner for the purpose of surveying, ascertaining, and marking out, in conjunction with the commissioner or commissioners appointed, or to be appointed, by the President of the United States in that behalf, so much of the line of boundary hereinbefore described as it is to be traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia. And we do hereby give to our said commissioner full power and authority to do and perform all acts, matters, and things which may be necessary and proper for duly carrying into effect the object of this, our commission.

And we, reposing especial trust and confidence in the diligence, skill, and integrity of our trusty and well-beloved George Henry Richards, esquire, a captain in Our Royal Navy, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him our second commissioner for the purposes of this, our commission; and we do hereby give unto him full power and authority to be present with and to assist Our first commissioner in the due execution thereof; and also in case of the death, absence, or incapacity of Our said first Commissioner, to supply his place and to act singly as Our commissioner for the due execution of this, Our commission.



In witness whereof, we have signed these presents with Our royal hand, given at Our Court, at Osborne House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and fifty-six, and in the twentieth year of Our reign.

By Her Majesty's command :

CLARENDON.

*Captain Prevost's original Instructions, so far as they relate to the Determination of the Water Boundary.*

FOREIGN OFFICE, December 20, 1856.

SIR : I enclose to you herewith a commission, under Her Majesty's sign manual, appointing you to be Her Majesty's first Commissioner for ascertaining and marking out so much of the boundary under the first article of the treaty between Great Britain and the United States, of which a copy is enclosed, as is traced from the point where the 49th parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and also appointing Captain Richards to be Her Majesty's second Commissioner, and authorizing him to be present with and to aid and assist you in the execution of your duties as first commissioner, and, in case of your being incapacitated by any cause from the performance of your duties, to supply your place as first commissioner.

Under the authority of this appointment Captain Richards may, if you consider it desirable, be present at, and take part in, the discussions between yourself and the commissioner or commissioners appointed by the United States, but the responsibility for the conduct of the commission and the control of its proceedings, as far as the British portion of it is concerned, rests exclusively with yourself. Captain Richards is placed under your orders, and you will assign to him such a portion of the duties devolving upon the commission as you may consider expedient.

I have appointed Mr. George Young to be Secretary to the Commission, and he also will be under your orders.

In a subsequent despatch I furnish you with detailed instructions for your guidance ; and I have only, therefore, to state to you, in my present despatch, that the boundary line which may be agreed upon must be accurately laid down on a map drawn in duplicate, and each copy of such map must be signed by the commissioners of both parties, and annexed to the protocol, also signed in duplicate, in which the agreement come to shall be recorded.

The Board of Admiralty have been requested to supply you with such scientific instruments as you may require for the use of the commission, and with any maps or charts which may be likely to be useful to you.

You will report to me, from time to time, and in duplicate, your proceedings in execution of the instructions which I have addressed to you.

I am, &c.,

CLARENDON.

Captain PREVOST, R. N., &c., &c., &c.

*Mr. Campbell to Captain Prevost.*

WASHINGTON CITY, D. C., April 14, 1858.

SIR : Your letter of the 22d December, (enclosing a copy of your commission and original instructions,) addressed to me, at Port Townshend, Washington Territory, reached me at this place on the 1st ultimo.

In reply thereto I have the honor respectfully to state that, during our discussions in relation to the determination of "the channel" separating the continent from Vancouver's Island, I thought I perceived that your mind was sub-

ject to difficulties not inherent in the question; and this impression was strengthened when you informed me that you had instructions for your guidance, in the event of our disagreement, which, according to my recollection, were not embodied in those you exhibited to me at our first meeting.

I knew your commission gave you ample powers to bind your government; but there might be conditions in your instructions which would prevent you, under certain circumstances, from exercising those powers to their full extent. And it occurred to me that, unless I could be informed of all the difficulties in the way of an agreement between us, I should labor under great disadvantage in laying the matter before my government for its further action.

Under these impressions I made the inquiries contained in my letter of the 4th of December, and subsequently requested copies of your instructions. It would, perhaps, as you suggest, have been more regular to have made the request at an earlier period. But I do not know that either party could, of right, demand copies of the instructions given to the other by his government. Nevertheless, as the British ambassador at Washington had requested and promptly received, from the State Department, and you had been furnished by him with, a copy of the instructions given by my government to me, I think that when I felt it necessary, even at that late period, to apply to you for a copy of your instructions, the request should not have been considered unreasonable.

It is unnecessary to observe that the copy you furnish is not a compliance with my request, as it is not the document containing the directions cited by you, and which have been referred to as those likely to have embarrassed our proceedings.

In conclusion, permit me to say I think you have misapprehended the object of my request for copies of your instructions. I did not by that request intend to convey the idea that you had not acted in accordance with your own judgment. I regret, therefore, that you should have felt it necessary to repeat the assurances made in your letter of the 8th of December, which, if any were required, I need hardly say, would have been quite sufficient to disabuse me of any doubt I might have entertained on the subject.

With the highest esteem I have the honor to be, very respectfully, your most obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner on the part of the United States  
for determining the Northwest Boundary Line.*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner, &c., &c., &c.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Off Point Roberts, June 4, 1858.*

SIR: I have the honor to acknowledge the receipt of your letter of the 14th April last, in reply to mine of the 22d December last.

Taking this opportunity of again offering you my assurance of esteem and consideration,

I have the honor to be, sir, your most obedient servant,

JAMES C. PREVOST,  
*Captain Ship Satellite, and Her Majesty's First Commissioner  
for ascertaining the Water Boundary under the  
1st Article of the Treaty of 15th June, 1846.*

ARCHIBALD CAMPBELL, Esq.,  
*Commissioner on the part of the United States  
for the Northwest Boundary.*

*Mr. Cass to Mr. Campbell.*

DEPARTMENT OF STATE,  
Washington, June 8, 1859.

SIR : Since writing to you last, I have received your several communications of the 19th of July, 25th of August, 11th and 25th of September, 17th November, 1st, 27th, and 30th of December, 1858, and 20th of January, 1859. I now transmit to you, for your information, the copy of a despatch of the 17th of January last, addressed by this Department to Mr. Dallas, relative to the instructions given by the British government to its boundary commissioner, Captain Prevost, with an extract from Mr. Dallas's reply, and a transcript of the documents which accompanied it, excepting the instructions to Captain Prevost, with a copy of which, it is understood, you have already been furnished. Among the papers here sent is an extract from so much of a further instruction to Captain Prevost as relates to the character of his duties and to the extent of his powers, which extract it is very probable you have not yet seen, and which, doubtless, will be interesting to you.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

ARCHIBALD CAMPBELL, Esq., &c., &c., &c.

*Mr. Cass to Mr. Dallas.*

DEPARTMENT OF STATE,  
Washington, January 17, 1859.

SIR : This government has learned, with some surprise, that a misunderstanding with regard to the water boundary has taken place between the commissioners appointed to run and mark the northwestern boundary line between the United States and Great Britain, under the treaty of limits westward of the Rocky Mountains, of the 15th of June, 1846. Upon consideration of the correspondence which soon after took place between Mr. Bancroft and Lord Palmerston, on the subject of the water boundary, it was not apprehended that any doubt could arise between the commissioners with regard to the matter.

Lord Napier was promptly furnished with a copy of the instructions which were given to our commissioner; but, up to this time, we have not been furnished with a copy of those given to the British commissioner. I have, accordingly, to request that you will, at your earliest convenience, apply to the British government for a copy of those instructions for the information of the government of the United States.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

*Mr. Dallas to Mr. Cass.*

[Ext

LEGATION OF THE UNITED STATES,  
London, February 25, 1859.

SIR : In conformity with your No. 146, (January 17) I addressed, on the fifth instant, to the Earl of Malmesbury a request to be furnished with a copy of the instructions given by this government to their commissioners for determining the

northwestern boundary line between the United States and Great Britain under the treaty of limits of the fifteenth of June, 1846. These papers were sent to me the day before yesterday with a note from his lordship, and I now annex transcripts of the whole.

In my No. 36, of the first of January, 1857, communicating the names of the gentlemen appointed on this service, I took the liberty to suggest to Mr. Marcy the probability that some difficulty might arise in determining the channel, down the centre of which, from latitude 49° and the Gulf of Georgia, the boundary should run according to the treaty. This apprehension arose mainly from considering a map or sketch issued from our Coast Survey office in 1855, showing the progress of the survey of Washington sound and vicinity.

Since the receipt of your No. 146 I have searched the archives of the legation, thinking it possible that something might be found to throw light upon the question. There are two notes addressed by Mr. Bancroft to Lord Palmerston, her Majesty's principal secretary of state for foreign affairs, dated respectively the thirty-first of July, 1848, and third November, 1848, both of which show the decided and declared opinion at that time entertained by our minister. \*

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I have the honor to be, sir, your most obedient servant,

G. M. DALLAS.

Hon. LEWIS CASS,

*Secretary of State.*

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*Mr. Dallas to Lord Malmesbury.*

LEGATION OF THE UNITED STATES,  
*London, February 5, 1859.*

MY LORD: In the apprehension that some difference of opinion has arisen among the commissioners appointed respectively by Her Majesty's government and the government of the United States, for carrying into effect the provisions of the first article of the treaty of the fifteenth of June, 1846, in regard to limits westward of the Rocky Mountains, I am specially charged to request that your lordship will be good enough to cause me to be furnished, for the information of my government, with a copy of the instructions given by Her Majesty's government to the British commissioners. It may be proper for me to apprise your lordship that a copy of the instructions addressed by the government of the United States to the commissioners appointed by them was promptly, some time ago, delivered to Lord Napier.

I beg your lordship to accept the renewed assurance of my highest consideration.

I have the honor to be your lordship's most obedient servant,

G. M. DALLAS.

The Right Honorable THE EARL OF MALMESBURY.

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*Lord Malmesbury to Mr. Dallas.*

FOREIGN OFFICE, *February 22, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the fifth instant, requesting to be furnished with a copy of the instructions given to the commissioners appointed by Her Majesty's government to carry into effect the provisions of the first article of the treaty of June 15, 1846, in regard to

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\* See discussion of the Water Boundary question, page 84-5.

limits westward of the Rocky Mountains. I have the honor, in reply, to transmit to you a copy of the commission, under Her Majesty's sign manual, appointing Captains Prevost and Richards to be respectively first and second commissioners for this purpose, and a copy of the instruction (December 20, 1856) to Captain Prevost, which accompanied it. Copies of these documents have, I have reason to believe, been already furnished by Captain Prevost to the United States commissioner, Mr. Campbell, and they accord generally with the nature of the commission and instructions communicated by Mr. Campbell to Captain Prevost, as those under which he was acting.

I also enclose an extract of so much of a further instruction (December 20, 1856,) to Captain Prevost as relates to the character of his duties and to the extent of his powers, and I should feel obliged by your communicating to me a copy or extract of any further instructions of a similar character which may have been given to the United States commissioner \*

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

MALMESBURY.

GEORGE M. DALLAS, Esq., &c., &c.

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*Extract from Additional Instructions to Captain Prevost.*

FOREIGN OFFICE, *December 20, 1856.*

"The Queen having been pleased to appoint you to be Her Majesty's first commissioner for marking out so much of the boundary between Her Majesty's possessions in North America and the territories of the United States as is comprised between the continent of America and Vancouver's Island, I have to furnish you with the following instructions for your guidance in the execution of the duties intrusted to you by Her Majesty. The boundary, which, in conjunction with one or more commissioners appointed by the government of the United States, it will be your duty accurately to define, is described in the treaty between Great Britain and the United States, of June 15, 1846, in the following general terms :

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Strait to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

It is to be regretted that no map or plan was annexed to the treaty on which the line of boundary thus indicated was laid down, as in the intermediate space between the continent and Vancouver's Island there are several smaller islands, through and among which different channels run in various directions, along one or more of which a passage to the southward from the Gulf of Georgia to the Strait of Juan de Fuca may be found.

At the time, however, when the treaty was concluded, in 1846, only one navigable channel was known to exist, viz: that known by the name of Rosario Strait, (sometimes called Vancouver's Channel,) which runs due south from the lower extremity of the Gulf of Georgia to the eastern extremity of the Straits of Fuca. A line drawn through the centre of the Gulf of Georgia and along the centre of the channel would, therefore, exactly answer the description of the channel contained in the treaty. On this ground Her Majesty's government, shortly after the conclusion of the treaty of 1846, proposed to the government of the United States that the channel known as Rosario Strait should be adopted,

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\* No additional instructions were given to the United States commissioner.—A. C.

by mutual agreement, as the channel of the treaty. But the government of the United States showed no disposition to accede to this proposition; and on the contrary, in the year 1848, through their minister at this court, Mr. Bancroft, they spoke of another channel more immediately adjacent to Vancouver's Island, namely, the channel of Arro, as that through which the boundary line passed. Since that time the question of defining the boundary has remained in abeyance, because the legislature of the United States has refrained from appropriating the sums necessary to meet the expenses incidental to the operation. This obstacle has now been removed, but Her Majesty's government have not thought it advisable, after what has passed on the subject, to renew the proposal, that, as a preliminary to the meeting of their respective commissioners, the two governments should come to an understanding between themselves as to what was the channel of the treaty. That channel is, therefore, now to be ascertained. It is to be sought for between Vancouver's Island and the mainland, in an archipelago of islands hitherto unsurveyed by any British authority; though it would seem from a chart published in the United States, in the year 1854, called, "a reconnoissance of Canal de Arro and Strait of Rosario," that a survey has been made of it on the part of the United States government.

It will be the duty of Her Majesty's commissioner to ascertain, with the assistance of the officers placed under his orders, and in communication and conjunction with the commissioners of the United States, what is the channel through the middle of which and of Fuca's Straits, according to the terms of the treaty, the line is to be run from the forty-ninth degree of north latitude to the Pacific Ocean. The first operation will, of course, be to determine with accuracy the point at which the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument. That point ascertained, the commissioners will carry on the line of boundary, as prescribed in the treaty, along the forty-ninth parallel north latitude to the middle of the channel which separates the continent from Vancouver's Island.

The point next to be ascertained is the middle of the channel which separates the continent from Vancouver's Island, from which point the boundary line is to be drawn in a southerly direction through the middle of the said channel.

That point will probably be found somewhere about  $123^{\circ} 15'$  west longitude.

At whatever place this point may be fixed, the line is to be drawn from thence through the middle of the channel separating the continent from Vancouver's Island in a southerly direction.

In this part of the space between them there is only one channel, namely, the Gulf of Georgia, and it would seem, therefore, to be clear that the line must be drawn along the centre of that gulf to its southern extremity, where it ceases to be the *only* channel between the continent and Vancouver's Island.

At the other extreme point of the boundary between the territories of Great Britain and of the United States, namely, the Straits of Juan de Fuca, there is only one channel, and along the centre of that channel the boundary line is to be drawn.

Any question, indeed, as to which channel is to be adopted as the true line of boundary indicated by the treaty can only arise when there is more than one channel which might be supposed to answer the description of the treaty.

So long as there is only one channel separating the continent and Vancouver's Island, no doubt can be entertained, and, therefore, the centre of the Gulf of Georgia, so far as the latitude where it ceases to be the only channel and the centre of the Strait of Fuca, till it ceases, also, to be the only channel between the continent and Vancouver's Island, appear to Her Majesty's government to be fixed points in the line of boundary, and it is only as regards the space between these two points that any differences of opinion as to the proper channel can exist.

A line drawn down the middle of the Gulf of Georgia would pass just to



limits westward of the Rocky Mountains. I have the honor, in reply, to transmit to you a copy of the commission, under Her Majesty's sign manual, appointing Captains Prevost and Richards to be respectively first and second commissioners for this purpose, and a copy of the instruction (December 20, 1856) to Captain Prevost, which accompanied it. Copies of these documents have, I have reason to believe, been already furnished by Captain Prevost to the United States commissioner, Mr. Campbell, and they accord generally with the nature of the commission and instructions communicated by Mr. Campbell to Captain Prevost, as those under which he was acting.

I also enclose an extract of so much of a further instruction (December 20, 1856,) to Captain Prevost as relates to the character of his duties and to the extent of his powers, and I should feel obliged by your communicating to me a copy or extract of any further instructions of a similar character which may have been given to the United States commissioner \*

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

MALMESBURY.

GEORGE M. DALLAS, Esq., &c., &c.

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*Extract from Additional Instructions to Captain Prevost.*

FOREIGN OFFICE, December 20, 1856.

"The Queen having been pleased to appoint you to be Her Majesty's first commissioner for marking out so much of the boundary between Her Majesty's possessions in North America and the territories of the United States as is comprised between the continent of America and Vancouver's Island, I have to furnish you with the following instructions for your guidance in the execution of the duties intrusted to you by Her Majesty. The boundary, which, in conjunction with one or more commissioners appointed by the government of the United States, it will be your duty accurately to define, is described in the treaty between Great Britain and the United States, of June 15, 1846, in the following general terms :

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Strait to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north latitude remain free and open to both parties.

It is to be regretted that no map or plan was annexed to the treaty on which the line of boundary thus indicated was laid down, as in the intermediate space between the continent and Vancouver's Island there are several smaller islands, through and among which different channels run in various directions, along one or more of which a passage to the southward from the Gulf of Georgia to the Strait of Juan de Fuca may be found.

At the time, however, when the treaty was concluded, in 1846, only one navigable channel was known to exist, viz: that known by the name of Rosario Strait, (sometimes called Vancouver's Channel,) which runs due south from the lower extremity of the Gulf of Georgia to the eastern extremity of the Straits of Fuca. A line drawn through the centre of the Gulf of Georgia and along the centre of the channel would, therefore, exactly answer the description of the channel contained in the treaty. On this ground Her Majesty's government, shortly after the conclusion of the treaty of 1846, proposed to the government of the United States that the channel known as Rosario Strait should be adopted,

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\* No additional instructions were given to the United States commissioner.—A. C.

by mutual agreement, as the channel of the treaty. But the government of the United States showed no disposition to accede to this proposition; and on the contrary, in the year 1848, through their minister at this court, Mr. Bancroft, they spoke of another channel more immediately adjacent to Vancouver's Island, namely, the channel of Arro, as that through which the boundary line passed. Since that time the question of defining the boundary has remained in abeyance, because the legislature of the United States has refrained from appropriating the sums necessary to meet the expenses incidental to the operation. This obstacle has now been removed, but Her Majesty's government have not thought it advisable, after what has passed on the subject, to renew the proposal, that, as a preliminary to the meeting of their respective commissioners, the two governments should come to an understanding between themselves as to what was the channel of the treaty. That channel is, therefore, now to be ascertained. It is to be sought for between Vancouver's Island and the mainland, in an archipelago of islands hitherto unsurveyed by any British authority; though it would seem from a chart published in the United States, in the year 1854, called, "a reconnoissance of Canal de Arro and Strait of Rosario," that a survey has been made of it on the part of the United States government.

It will be the duty of Her Majesty's commissioner to ascertain, with the assistance of the officers placed under his orders, and in communication and conjunction with the commissioners of the United States, what is the channel through the middle of which and of Fuca's Straits, according to the terms of the treaty, the line is to be run from the forty-ninth degree of north latitude to the Pacific Ocean. The first operation will, of course, be to determine with accuracy the point at which the forty-ninth parallel of north latitude strikes the eastern shore of the Gulf of Georgia, and to mark that point by a substantial monument. That point ascertained, the commissioners will carry on the line of boundary, as prescribed in the treaty, along the forty-ninth parallel north latitude to the middle of the channel which separates the continent from Vancouver's Island.

The point next to be ascertained is the middle of the channel which separates the continent from Vancouver's Island, from which point the boundary line is to be drawn in a southerly direction through the middle of the said channel.

That point will probably be found somewhere about  $123^{\circ} 15'$  west longitude.

At whatever place this point may be fixed, the line is to be drawn from thence through the middle of the channel separating the continent from Vancouver's Island in a southerly direction.

In this part of the space between them there is only one channel, namely, the Gulf of Georgia, and it would seem, therefore, to be clear that the line must be drawn along the centre of that gulf to its southern extremity, where it ceases to be the *only* channel between the continent and Vancouver's Island.

At the other extreme point of the boundary between the territories of Great Britain and of the United States, namely, the Straits of Juan de Fuca, there is only one channel, and along the centre of that channel the boundary line is to be drawn.

Any question, indeed, as to which channel is to be adopted as the true line of boundary indicated by the treaty can only arise when there is more than one channel which might be supposed to answer the description of the treaty.

So long as there is only one channel separating the continent and Vancouver's Island, no doubt can be entertained, and, therefore, the centre of the Gulf of Georgia, so far as the latitude where it ceases to be the only channel and the centre of the Strait of Fuca, till it ceases, also, to be the only channel between the continent and Vancouver's Island, appear to Her Majesty's government to be fixed points in the line of boundary, and it is only as regards the space between these two points that any differences of opinion as to the proper channel can exist.

A line drawn down the middle of the Gulf of Georgia would pass just to

the eastward of the Matia group, at the head of Rosario Strait, and being prolonged from thence nearly due south, would pass through Rosario Strait into the Strait of Juan de Fuca. It appears to Her Majesty's government that the line which I have described is so clearly and exactly in accordance with the terms of the treaty that it may be hoped you will have no difficulty in inducing the American commissioner to acquiesce in it.

If, however, the commissioner of the United States will not adopt the line along Rosario Strait, and if, on a detailed and accurate survey, and on weighing the evidence on both sides of the question, you should be of opinion that the claims of Her Majesty's government to consider Rosario Strait as the channel indicated by the words of the treaty cannot be substantiated, you would be at liberty to adopt any other intermediate channel which you may discover on which the United States commissioner and yourself may agree as substantially in accordance with the description of the treaty.

But if you are satisfied that the British claim is unquestionably sound, and you are unable to come to an understanding on the subject of an intermediate channel with your American colleague, you will then propose that you should lay before your respective governments, either jointly or severally, a statement of the points on which you disagree, and the reasons by which each of you supports his opinion. Having disposed of the difficulties in regard to the boundary line from the Gulf of Georgia to the Straits of Juan de Fuca, it is not supposed likely that you will have any farther difficulty in carrying on the line through those straits to the Pacific Ocean.

From the character of the whole line being that of a water boundary, it will be more difficult than in the case of a land boundary to mark exactly the territorial limits of the respective governments. You will do so, as far as circumstances admit, by the intersection of the cross-bearings of natural or artificial landmarks, endeavoring, as far as possible, to make the line so clear and easy to be understood as to obviate any future difference on the subject between the two governments.

Captain PREVOST.

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, August 4, 1859.*

SIR: I have the honor to acknowledge the receipt (on the 25th ultimo) of your letter of the 8th of June. All of the accompanying documents were interesting to me, but the *extract* from Captain Prevost's secret instructions for his guidance was essential to a proper knowledge of the relations which now subsist between us as joint commissioners. I find from these instructions that I was fully justified in the apprehensions I communicated to him, (subsequent to our discussion on the boundary question in November, 1857,) that he was virtually, if not positively, prohibited from adopting the Canal de Haro as the boundary channel intended by the treaty. A perusal of these instructions throws a flood of light upon the tortuous and one-sided course which guided his action, with a view to bring about a disagreement and reference of the matter back to our respective governments, unless he could accomplish the object his government had in view. Having been furnished at an early day, through his government, with a copy of my instructions, he had the advantage of knowing that I was in no way hampered in regard to the channel through which the boundary line was to be run, while he knew that he dare not go further than the channel east of the island of San Juan. I cannot well conceive of a more dishonest mode of attempting to evade the obligations of a treaty, or a greater out-

rage upon the confiding disposition of the government of the United States, than is exhibited in these instructions for the guidance of the British commissioner. Nor can I understand how an officer of the British navy could conscientiously undertake to carry a treaty into effect under such instructions.

I have never regarded the duty of commissioner to carry the treaty into effect as of a diplomatic character. I have, therefore, from the outstart, been open and unreserved in my communication with my colleagues both of the land and water boundary. But I have learned by experience that their views of duty are widely different from mine. I came out here to do a fair and honest business—to carry out faithfully, on the part of my government, a contract entered into with Great Britain. Although the language of the treaty is as clear as day, and scarcely admits of more than one meaning, I did not plant myself upon its mere letter, but, finding that the lapse of time, the changes of administration in our government, and selfish interests on the part of the British government, instigated by the Hudson's Bay Company, had enveloped its meaning in an air of obscurity, I made diligent search for evidence which would throw light upon the intention of the negotiators, framers, and ratifiers of the treaty, fully determined, whatever might be the result of my investigations, to give due weight to it, without partiality, fear, or favor. The various documents I have laid before the department will attest the sincerity with which I have labored to bring forward the truth. The British commissioner, Captain Prevost, on the contrary, has taken the very opposite course. The pursuit or fair consideration of evidence to elucidate any obscurity in which the language of the treaty might be involved from any cause whatever has been most studiously avoided. A blind adherence to a tortured interpretation of the meaning of the words of the treaty has been with him apparently a sacred act of duty. This perverted reading of the treaty has been his infallible guide throughout my connection with him. And he has so resolutely shut his eyes to the light of the most authentic cotemporaneous evidence I have laid before him, not only of the views of my government, but also of his own, that I sincerely believe, though one should rise from the dead to confirm it, he would not give it credence.

That so amiable and estimable a gentleman as Captain Prevost should pursue a course so inconsistent with the ordinary dictates of common sense and good judgment, to say nothing of the demands of high honor, has been to me a source of the most unfeigned regret and mystification. If the British government, however, has the right to exact of its agents an implicit obedience to its mandates, regardless of all considerations but its interests, I must do Captain Prevost the justice of bearing witness to his devoted loyalty.

I would respectfully call the attention of the department to the fact that there are still some points which must be embraced in the instructions for Captain Prevost's guidance which are not to be found in the *extract* forwarded to me. It is evident from the correspondence of Captain Prevost that his claim to Rosario Straits on the ground of the *very peculiar wording* of the treaty, and his main objection to the Canal de Haro by his interpretation of the word *southerly* in the treaty, are derived from instructions; for he says in his letter of November 24, 1857, "the high and official authority to whom I alluded in my letter of the 9th instant as the source of my information that the Vancouver or Rosario Strait was the channel contemplated by the British government, is Her Majesty's present Secretary of State for foreign affairs, the Earl of Clarendon, and I cannot presume that he would intimate to me in writing, as he has done, that such was the case, unless he had substantial grounds for doing so." Lord Napier, while repudiating "the very peculiar wording" of the treaty, and Captain Prevost's interpretation of the word "southerly," informed me that the Earl of Clarendon seemed to attach some importance to them. I cannot but think, therefore, that these instructions or suggestions have been purposely omitted from the *extract*, and, as they really formed the great obstacles to an agreement

between Captain Prevost and myself, I think it important they should be obtained.

A difficulty has also occurred in regard to an agreement upon the common initial point of the water and land boundary on the west side of Point Roberts, which probably is also the result of instructions. And I have also good reason to believe that Captain Prevost was authorized in some shape or form to negotiate with me for the disposal of the southern end of Point Roberts by exchange, make-weight or otherwise. The manner in which the demarcation of the line across Point Roberts is held in abeyance by the refusal of the British commissioner to mark it as the initial point, satisfies me that considerable importance is attached by the British government to the possession of it, and that they hope by some fortuitous circumstance to secure it.

As the department has furnished the British government with a *full* copy of my instructions, there is no reason why they should not in return furnish *full* copies of their commissioner's instructions. I would therefore respectfully recommend that a *full* copy of the instructions of Captain Prevost be requested for the information of the government, and that when received a copy of so much of them as I have not already received in the *extract* be transmitted to me.

I transmit herewith for the information of the department a recent correspondence with Captain Prevost, from which it will be seen that there is little prospect of any progress in the determination of the line until the British government are called upon to give their commissioner peremptory instructions to adopt the Canal de Haro. At present he seems to be divested of all power to act by his reference of the question to his government, a condition of affairs anything but satisfactory.

Circumstances to which I will allude in a subsequent communication\* show the necessity of a speedy settlement of the boundary question. And I would strongly urge upon the department decisive measures to bring it about.

As far as I am concerned, I am, as I have ever been, ready to settle it upon principles of common sense and international law. It is for the department to take such steps as will provide me with a colleague whose powers shall be equal to my own, and whose sense of right and duty will not be so crippled by special instructions for his guidance as to render the honest and faithful execution of the treaty an impossibility.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

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*Mr. Campbell to Captain Prevost.*

U. S. NORTHWEST BOUNDARY COMMISSION, CAMP SIMIAHMOO,  
May 18, 1859.

SIR: On the third day of December, 1857, at your request, a meeting of the joint commission for determining the water boundary was convened at this place, on which occasion you proposed that the whole matter connected with the water boundary should be referred by each commissioner to his government. In this proposal I did not concur.

As the reference of the matter was not agreed upon, and nearly eighteen months have elapsed without any further proceedings on the subject by the

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\* See *Military Occupation of San Juan*, p. 112.



joint commission, I have the honor, very respectfully, to request you to inform me whether I am to expect any further communication from you in regard to the determination of the water boundary, and if so, at what period of time I may probably look for such communication.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner Northwest Boundary Survey.*

Captain JAMES C. PREVOST, R. N.,

*British Commissioner, &c., &c., &c.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,

*Esquimalt, Vancouver's Island, May 27, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, referring to a meeting of the joint commission held upon the third day of December, 1857, at which you state I proposed that a reference of the whole matter connected with the water boundary should be made by each commissioner to his government, and as you did not concur in such proposal, and as eighteen months have elapsed without any subsequent proceedings, requesting to be informed whether you are to expect any further communication from me in regard to the determination of the water boundary.

2. It seems to me that this letter conveys the implication that the delay which has taken place in the determination of the line of water boundary originated from my act and now rests entirely with me. I therefore feel called upon in justice to myself to offer a few remarks, and to submit that a review of the facts connected with the question will show that the very opposite is the case.

3. I am not unmindful that I made the suggestion for a reference of the matter in dispute between us to our respective governments; and why did I do so? *Purposely to facilitate its settlement.*

You objected to such reference, but for what reason I am not in a position to judge.

4. It needs not that I should enter into any recapitulation of the correspondence that has passed between us. It suffices to say that from the exact wording and intrinsic evidence of the treaty, I formed a clear and fixed opinion as to the direction in which the line of water boundary to be determined between us should be carried. Nothing you advanced, nothing that transpired, shook that opinion in the slightest; on the contrary, the very argument you adduced, founded upon evidence which was *not* the treaty, only served to confirm my opinion and to establish me in my view as to its correctness. In such a case it would neither have been an unnatural nor unreasonable proceeding on my part, had I determined resolutely to adhere to the views I entertained, and not to depart one iota from the line which I then believed, which I now believe, to be the line of boundary established by the treaty; but, actuated by conscientious motives in fully recognizing the importance of a speedy settlement of the matter in possessing the most earnest desire to effect that settlement, and in firmly believing that it was the province of the commissioners to adjust any disagreement, without reference, by mutual concession and forbearance, I frankly offered to meet you half way if you would reciprocate in the same spirit. This conciliatory offer on my part you positively refused to entertain, and I therefore think I am justly absolved from the delay which has in consequence arisen.

5. I would, with the utmost respect, wish to remind you that on the 16th August last a joint commission meeting was held, at which I expressed my readiness to concert certain measures which it was desirable should then be



completed; but proceedings therein were again delayed, not from any desire on my part, but through your declining to act unless I deferred in toto to the views you entertained in connection therewith.

6. In conclusion, I beg to acquaint you that I have not received any instructions from my government upon the subject of the reference made by me on account of the contrary views entertained by us, nor am I aware when it is probable that I may receive instructions.

Permit me to assure you of my consideration and esteem, and believe me to remain your most obedient and humble servant,

JAMES C. PREVOST,

*Her Majesty's Commissioner, &c., &c., &c.*

ARCHIBALD CAMPBELL, Esq.,

*Commissioner on the part of the United States, &c., &c., &c.*

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*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, June 7, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 27th ultimo in reply to mine of the 18th. The object of my letter, as stated therein, was "to request you to inform me whether I am to expect any further communication from you in regard to the determination of the water boundary; and if so, at what period of time I may probably look for such communication."

In reply thereto, you say, "I beg to acquaint you that I have not received any instructions from my government upon the subject of the reference made by me on account of the contrary views entertained by us, nor am I aware when it is probable that I may receive instructions."

As your reply does not contain the information I asked for, I have the honor again to call your attention to my inquiries, and very respectfully to request an explicit answer thereto.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*United States Commissioner.*

Captain JAMES C. PREVOST, R. N.,

*British Commissioner, &c., &c., &c.*

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*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Esquimalt, Vancouver's Island, June 23, 1859.*

SIR: I have had the honor to receive your letter of the 7th instant, referring to a letter which you addressed to me on the 18th May last, and to my answer thereto, dated on the 27th May, of which you quote one paragraph, and then state that, as such reply does not contain the information you asked for, you again beg to call my attention to your inquiries and request an explicit answer.

2. In return thereto I beg very respectfully to refer you to my aforesaid letter of the 27th May, which, with every deference, I submit, when taken as a whole, conveys to you a very explicit answer to your communication of the 18th ultimo.

With every assurance of consideration, I have the honor to be, sir, your most obedient servant,

JAMES C. PREVOST,

*Her Majesty's Commissioner, &c., &c., &c.*

ARCHIBALD CAMPBELL, Esq.,

*Commissioner on the part of the United States, &c., &c., &c.*

*Mr. Campbell to Captain Prevost.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, July 9, 1859.*

SIR: I have the honor to acknowledge the receipt, on the 6th instant, of your letter of the 23d ultimo.

With a sincere desire to extract from your letter of the 27th of May the "very explicit answer" to my communication of the 7th, which you "submit, when taken as a whole," it conveys to me, I have again given it the most careful perusal and consideration, and with due deference, candor compels me to say that, whether taken as a whole or in part, it only conveys to me a very circumlocutory and evasive answer.

I have the honor to be, very respectfully, your obedient servant,  
**ARCHIBALD CAMPBELL,**  
*United States Commissioner*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner, &c., &c., &c., Esquimalt.*



*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Esquimalt, Vancouver's Island, July 19, 1859.*

SIR: I have the honor to acknowledge receipt of your letter of the 9th instant in reply to mine of 23d June, 1859.

I have the honor to be, sir, your most obedient servant,  
**JAMES C. PREVOST,**

*Captain of H. M. S. Satellite, and Her Majesty's Commissioner.*

**ARCHIBALD CAMPBELL, Esq.,**  
*United States Commissioner, &c., &c., &c.*

### III.—MILITARY OCCUPATION OF SAN JUAN ISLAND.

Letter of Mr. Campbell to Mr. Cass, August 18, 1859, reporting military occupation of San Juan Island.

Enclosures :

Correspondence between United States and British commissioners, viz :

Captain Prevost to Mr. Campbell, July 31, 1859.

Mr. Campbell to Captain Prevost, August 4, 1859.

Captain Prevost to Mr. Campbell, August 4, 1859.

Mr. Campbell to Captain Prevost, August 5, 1859.

Captain Prevost to Mr. Campbell, August 4, 1859.

Mr. Campbell to Captain Prevost, August 8, 1859.

Captain Pickett's military order, July 27, 1859.

Protest of Governor Douglas, of Vancouver's Island, against the occupation of San Juan Island, August 2, 1859.

Message of Governor Douglas to the legislature of Vancouver's Island, August 3, 1859.

Address of the legislature of Vancouver's Island to Governor Douglas.

Letter of Mr. Campbell to Mr. Cass, September 3, 1859.

Enclosures :

Correspondence with General Harney, viz :

Mr. Campbell to General Harney, August 14, 1859.

General Harney to Mr. Campbell, August 16, 1859.  
 Mr. Campbell to General Harney, August 30, 1859.  
 Letter of Mr. Campbell to General Scott, October 31, 1859.  
 Letter of Mr. Campbell to Mr. Cass, November 1, 1859.  
 Letter of Mr. Campbell to Mr. Cass, November 15, 1859.  
 Letter of Mr. Cass to Mr. Campbell, September 15, 1859.  
 Letter of Mr. Campbell to Mr. Cass, November 23, 1859.  
 Letter of Mr. Campbell to General Scott, November 23, 1859.  
 Letter of Mr. Campbell to Mr. Seward, October 3, 1861.  
 Letter of Mr. Seward to Mr. Campbell, October 4, 1861.

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWESTERN BOUNDARY COMMISSION,  
*Camp Simiahmoo, August 18, 1859.*

SIR : In my letter of the 4th instant, I had the honor to mention that circumstances to which I would allude in a subsequent communication showed the necessity of a speedy settlement of the boundary question. The circumstances therein referred to have resulted from the occupation of the island of San Juan by a company of the United States infantry, under the command of Captain Pickett. This movement was in compliance with a recent order of the Commanding General of the Department of Oregon, making a number of changes in the disposition of the troops in the Puget Sound district.

While engaged in an exploration of the Haro Archipelago, in the Light-house steamer Shubrick, (which Captain De Camp, United States navy, had kindly placed at the disposal of the Boundary Commission,) I happened to be at San Juan Island on the 26th ultimo, when the company arrived. On the following morning the troops were landed, and on the same evening Captain Prevost, Her Majesty's commissioner, arrived with his ship, the Satellite, and brought from Vancouver's Island a magistrate appointed by the British authorities for San Juan Island. The "Satellite" remained in the harbor about twenty-four hours, and then returned to Esquimaux. Her Majesty's ship Tribune arrived the next evening, and has since been permanently stationed in the harbor. The "Shubrick" remained there several days, during which time I explored a large portion of the island. I then proceeded with the exploration of the remainder of the Haro Archipelago, and returned to this place on the night of the 1st of August, when I learned that Captain Prevost had been here the day previous, and I found his letter of the 31st July awaiting me.

A copy of the correspondence, of which this is the opening letter, I have the honor to transmit herewith, for the information of the Department.

Whether Captain Prevost was prompted to address me the aforesaid letter by the circumstance of my being present at San Juan Island at the time of Captain Pickett's landing, I am not able to say. While Captain Prevost and I were in the harbor, the usual friendly visits were interchanged. The landing of United States troops on the island was incidentally alluded to, but did not become the subject of discussion between us. I was somewhat surprised, therefore, after the lapse of several days, to receive such a communication as he addressed to me. As this correspondence speaks for itself, it is unnecessary for me to comment upon it further than to repeat what I said to him in my first letter, that I did not recognize his right to question me in the manner he did. This was sufficient reason, in my mind, for declining to answer his series of questions. But being in reality ignorant whether the order for the occupation of San Juan Island emanated from the War Department or originated with the Commanding General of the Department of Oregon, I refrained from making any reply which might embarrass the military operations.

Wishing to intercept the ocean mail steamer at Port Townshend, to get my mail off in time for the steamer from San Francisco, of the 20th August, I left here in the steamer Shubrick on the 8th instant, and arrived at Port Townshend that night. To my disappointment the San Francisco steamer had arrived and departed, having reached Port Townshend two days sooner than she was expected. I mention this to account for the absence of letters from me by that mail which the Department might have looked for.

While the "Shubrick" was lying at Port Townshend, the "Sound" mail steamer Julia arrived from Fort Steilacoom with three companies of infantry on board, under the command of Lieutenant Colonel Casey, on their way to San Juan Island. I called upon Colonel Casey, and he informed me that it had been intimated to him that a landing of British troops on the island was contemplated, which, under his orders, must bring on a collision; that it was his intention, as soon as he landed, to seek a conference with the commanding officer of the British forces, and make to him such a proposition as he thought would be honorable to both parties and prevent a rupture. He requested me to accompany him to the island, as my presence might be of service in aiding him to bring about an amicable arrangement, until the home governments could be heard from. In accordance with his request, I followed after the steamer Julia, and arrived at the island just after the troops had disembarked. Although circumstances prevented the conference desired by Colonel Casey, at his request I remained several days in San Juan harbor. As no demonstrations, however, were made on the part of the British naval or land forces, and it now appearing improbable that any would be made, I did not deem my presence there longer necessary. On the morning of the 15th instant I proceeded to make an examination of the channel adjacent to Vancouver's Island and west of the archipelago, at and immediately south of the 49th parallel, and arrived at this place the same evening. The "Sound" mail steamer arrived here this morning, and brought intelligence that four more companies (from Fort Vancouver) had been landed on San Juan Island.

From present indications, I think there is not the slightest probability that British troops will be landed on the island, or that any molestation of the United States troops will be attempted, at least until the British authorities shall have received instructions from the home government.

The governor of Vancouver's Island, on the 3d instant, sent a message to the legislature of that colony, in which he informs that body that "troops will be landed at San Juan." At the time this movement was in contemplation Admiral Baynes arrived at Esquimalt in Her Majesty's ship Ganges, and no movement towards landing British troops having been attempted, it is generally believed that the presence of the admiral at Vancouver's Island has for the present caused the suspension of further action on the subject.

For the information of the department, I transmit herewith copies of the following documents taken from the Victoria newspapers, viz:

Captain Pickett's military order No. 1, dated San Juan Island, Washington Territory, July 27, 1859.

Protest of Governor Douglas against the occupation of San Juan Island, dated Victoria, Vancouver's Island, August 2, 1859.

Message of Governor Douglas to the Legislature of Vancouver's Island, dated Victoria, Vancouver's Island, August 3, 1859.

Address of the Legislature of Vancouver's Island to Governor Douglas, August 12, 1859.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL.

*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,

*Secretary of State.*

Ex. Doc. 29—8

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, 49th Parallel, July 31, 1859.*

SIR: A body of troops, professedly belonging to the army of the United States, having entered upon an armed occupation of the island of San Juan, in the Haro Archipelago, I have the honor very respectfully to request you will be pleased to acquaint me, at your earliest convenience, whether such occupation has been effected with your cognizance or consent, previous or otherwise, and, if so, whether you have received any intimation that the exact direction of the line of water boundary south of the 49th parallel of north latitude, under the treaty of 15th June, 1846, has been settled, or whether this movement of occupation is the result of instructions, direct or otherwise, from the government of the United States.

2. If you are prepared to return me a negative answer to the foregoing queries, I would most earnestly implore you to undertake, individually or in concert with me, such steps as may induce the military authorities in Washington Territory to abstain from any course which might lead to acts of violence, and which might in the least degree imperil the amicable relations and good understanding of two countries knit together by firmer bonds of kindred and more extensive ties of commerce than any other two nations of the world.

3. It is not for me to comment upon the act, during a period when the most friendly relations are existing, of seizing by violence a portion of territory which we were commissioned by our respective governments amicably to assign to either government as the treaty might be found to determine, and which has not yet been so assigned; but I may remark that an act so unprecedented in the history of civilized and enlightened nations, and so contrary to that natural courtesy which is due from one great nation to another, cannot be productive of good, and may in the end entail such serious consequences, that I am sure both you and I would deplore to the last hour of our existence any hesitation or neglect on our parts to do all that lies in our power to avert impending evil. To this end, I have lost no time in seeking you, and I would again let me beg you to urge the adoption of some instant measures calculated to prevent any untoward and lamentable crisis.

4. With every assurance of personal esteem, and with confidence that you will not, if possible, hesitate to co-operate with me in this serious matter, I have the honor to remain, sir, your most obedient and humble servant,

JAMES C. PREVOST,

*Her Majesty's Commissioner.*

ARCHIBALD CAMPBELL, Esq.,

*United States Commissioner, &c., &c., &c.*

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*Mr. Campbell to Mr. Prevost.*

CAMP SIMIAHMOO, *August 4, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, in which you propound to me certain inquiries in regard to what you are pleased to characterize as the armed occupation of the island of San Juan by a body of troops *professedly* belonging to the army of the United States.

As the supervision of the movements and operations of the military forces of the United States forms no part of the duties of the Joint Commission for carrying into effect the first article of the treaty of June 15, 1846, I cannot recognize your pretensions to catechize me thereupon, and therefore I decline to return you either a positive or negative answer to your queries.

I cannot, however, allow your communication to pass without expressing my surprise that one who has had so many opportunities of forming a just appreciation of the military authorities in Washington Territory, as you have, should venture such a reflection upon their honor and integrity as implied in your earnest entreaty to me to undertake, individually or in concert with you, "such steps as may induce "them" to abstain from any course which might lead to acts of violence." Notwithstanding the friendly relations that subsist between myself and the officers of the army constituting the military authorities in Washington Territory, I have too much prudence and self-respect thus to intermeddle with the performance of their duties.

Considering the professed object you have in view, I think you are most unfortunate in your comments upon the presence of the United States troops on the island of San Juan, and I may add that they are not altogether in accordance with that "natural courtesy" which might be expected in a communication like that which you have stepped out of your official position as commissioner to address me.

Notwithstanding the apparent air of moderation with which you have clothed your words, there pervades your whole communication a vein of assumption and an attempt at intimidation by exciting apprehensions of evil, not well calculated to produce the effect you profess so ardently to desire.

I have the honor to be, very respectfully, your obedient servant,  
**ARCHIBALD CAMPBELL,**  
*United States Commissioner.*

Captain **JAMES C. PREVOST, R. N.,**  
*British Commissioner, &c., &c., &c.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, August 4, 1859.*

SIR: A body of troops belonging to the army of the United States having entered upon armed occupation of the island of San Juan, in the Haro Archipelago, and as such island forms part of the territory involved in the boundary established by the treaty between Great Britain and the United States of the 15th June, 1846, I have to call upon you, as the commissioner appointed by the government of the United States to determine, in conjunction with me, the line of boundary under the aforesaid treaty, to enter into a protest against the armed occupation of any part of such territory, the same being contrary to every principle of international law, and antagonistic to the pacific mission upon which both you and I are employed.

I have the honor to be, sir, your most obedient and humble servant,  
**JAMES C. PREVOST,**  
*Her Majesty's Commissioner.*

**ARCHIBALD CAMPBELL, Esq.,**  
*Commissioner on the part of the United States, &c, &c., &c.*

*Mr. Campbell to Captain Prevost.*

CAMP SIMIAHMOO, *August 5, 1859.*

SIR: I have the honor to acknowledge the receipt of your letter of the 4th instant, and in reply thereto I refer you to my letter of the same date for the



views I entertain of the duties of the Joint Commission, in regard to the movements and operations of the military forces of the United States.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*United States Commissioner.*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner, &c., &c., &c.*

*Captain Prevost to Mr. Campbell.*

HER BRITANNIC MAJESTY'S SHIP SATELLITE,  
*Simiahmoo Bay, August 4, 1859.*

SIR: I have duly received your letter of this date acknowledging the receipt of my letter of the 31st ultimo.

2. I need scarcely observe to you that your said letter is not a reply to my communication of the date mentioned. On the contrary, it evades the principal question at issue, and exhibits no desire to reciprocate with me in a friendly intercourse, such as I have a right to expect from a commissioner appointed to treat with me by a government whose relations are in such perfect harmony with the government of Her Britannic Majesty.

I have the honor to be, sir, your most obedient servant,

JAMES C. PREVOST,  
*Her Majesty's Commissioner.*

ARCHIBALD CAMPBELL, Esq.,  
*United States Commissioner, &c., &c., &c.*

*Mr. Campbell to Captain Prevost.*

CAMP SIMIAHMOO, *August 8, 1859.*

SIR: I have received your letter of the 4th instant, acknowledging the receipt of mine of the same date. In reply thereto, I have to say that I fully agree with you in your observation, that my letter of the 4th instant is not a reply to your communication of the 31st ultimo, if you mean thereby an answer, either general or particular, to the series of questions therein embodied. But that there is any *evasion* of either the principal question or any other question you propound to me, I flatly deny. I did not recognize your right to question me, and therefore I declined giving *any* answer whatever to your queries.

In the discharge of my official duties, it has ever been my desire and disposition to exhibit towards you a spirit of courtesy and frankness. In my private relations, I have never been backward in meeting your most cordial advances. But how far, outside of our legitimate official duties, you have a *right* to expect me to reciprocate with you in a "friendly intercourse" in my official capacity, as Commissioner, is not for you alone to judge.

It is hardly necessary for me to add that I am equally desirous with yourself for the preservation of the peace and harmony which now subsist between the United States and Great Britain, and which I trust most sincerely may long remain unbroken.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*United States Commissioner.*

Captain JAMES C. PREVOST, R. N.,  
*British Commissioner, &c., &c., &c.*

*Captain Pickett's Military Order.*

[Orders, No. 1.]

MILITARY POST, SAN JUAN ISLAND,  
*Washington Territory, July 27, 1859.*

I. In compliance with orders and instructions from the general commanding, a military post will be established on this island, on whatever site the commanding officer may select.

II. All the inhabitants of the island are requested to report at once to the commanding officer in case of any incursion of the northern Indians, so that he may take such steps as are necessary to prevent any future occurrence of the same.

III. This being United States territory, no laws, other than those of the United States, nor courts, except such as are held by virtue of said laws, will be recognized or allowed on this island.

By order of Captain Pickett :

JAMES W. FORSYTH,  
*Second Lieut. 9th Infantry, Post Adjutant.*

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*Protest of Governor Douglas against the Occupation of San Juan Island.*

By James Douglas, Companion of the most honorable Order of the Bath, Governor and Commander-in-chief in and over the colony of Vancouver Island and its Dependencies, Vice-Admiral of the same, &c., &c.

The sovereignty of the island of San Juan and of the whole of the Haro Archipelago has always been undeviatingly claimed to be in the Crown of Great Britain. Therefore I, James Douglas, do hereby formally and solemnly protest against the occupation of the said island or any part of the said archipelago, by any persons whatsoever, for or on behalf of any other powers, hereby protesting and declaring that the sovereignty thereof by right now is and always hath been in Her Majesty Queen Victoria, and her predecessors, kings of Great Britain.

Given under my hand and seal, at Victoria, Vancouver Island, this 2d day of August, in the year of our Lord one thousand eight hundred and fifty-nine, and the twenty-third of Her Majesty's reign.

[SEAL.]

JAMES DOUGLAS.

*Message of Governor Douglas to the Legislature of Vancouver's Island.*

*To the Legislature, Council, and House of Assembly of the Colony of Vancouver's Island :*

GENTLEMEN : I have to communicate for your information the intelligence of the landing of a detachment of United States troops on the island of San Juan, avowedly (see enclosures Nos. 1 and 2) for the purpose of forming a military post, and of asserting the sovereignty of the United States to that island.

Having received no information from any quarter that the government of the United States ever contemplated taking military possession of any part of the disputed territory while the boundary line remained unsettled, I am forced to believe that the late unwarrantable and discourteous act, so contrary to the usages of civilized nations, has originated in error, and been undertaken without the authority of that government.

That impression is corroborated by a letter (a copy of which is herewith enclosed) from the Hon. W. L. Marcy, Secretary for the United States, dated Washington, 17th July, 1855, to Her Majesty's minister at Washington, which contains instructions from the President of the United States to the governor of Washington Territory, and displays in the clearest manner the conciliatory and moderate views entertained by his government on the subject of the disputed territory.

Though the right of Great Britain to all the islands situated to the westward of "Vancouver" or "Rosario" Straits is, to our minds, clearly established by the first article of the treaty of 1846, and though those islands have since the foundation of this colony been considered as a dependency of Vancouver's Island, it is well known to you, gentlemen, that, out of respect to the construction that has been put upon that treaty by the government of the United States, we have abstained from exercising exclusive sovereignty over them.

Convinced that any officious or unjust assumption on either side of exclusive right to the disputed territory would simply be a fruitless and mischievous waste of energy, neither detracting from nor adding force to the claims of either nation, wise and considerate policy enjoins upon us the part of leaving so important a national question for settlement by the proper authorities, and of avoiding complications foreign to the views and wishes of, and probably embarrassing to, both governments.

Immediately on being informed of the landing of United States troops at San Juan, Her Majesty's ship *Tribune*, under the command of Captain Hornby, was despatched to that quarter, and soon afterward a detachment of royal engineers and royal marine light infantry were ordered from New Westminster, by Her Majesty's ship *Plumper*, Captain Richards, and those troops will be landed at San Juan, to protect the lives and property of British subjects.

You will observe, gentlemen, from enclosure number one, that the captain in command of the United States detachment of troops, in a public notice, dated 27th of July, assumes the exercise of exclusive sovereign rights in the island of San Juan, while the President of the United States altogether disclaims such pretensions, and seeks at most to continue the joint right of sovereignty and domain in common with Great Britain.

We may presume from that circumstance that the notice in question was framed in ignorance of the intentions of the United States government, and that the pretensions set forth will not be maintained.

Entertaining such opinions, I have not failed to impress on Her Majesty's naval officers now stationed at San Juan the desire of Her Majesty's government to avoid every course which may unnecessarily involve the suspension of the amicable relations subsisting between Great Britain and the United States; at the same time, those officers have been instructed, and are prepared, to assert the rights and to maintain the honor and dignity of our sovereign and Her dominions.

I have the honor to be, gentlemen, your most obedient servant,

JAMES DOUGLAS.

GOVERNMENT HOUSE, VICTORIA, *August 3, 1859.*

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*Address of the Legislature of Vancouver's Island to Governor Douglas.*

The House acknowledges the receipt of Your Excellency's communication of the 3d instant, relating to the clandestine invasion of San Juan Island by United States troops, and the steps to be adopted in relation thereto.

Since that communication it is well known that additional forces have been landed.

The House would, therefore, inquire why the British forces were not landed, to assert our just right to the island in question, and to uphold the honor of our country and our Queen?

The House would most urgently impress upon Your Excellency to enforce upon Her Majesty's government the necessity of demanding from the government of the United States, not only the immediate withdrawal of those troops, but also strenuously and at all risks to maintain Her right to the island in question, and also to all other islands in the same archipelago, now so clandestinely, dishonorably, and dishonestly invaded.

It is not for our country to be wantonly and insolently insulted, but redress must be demanded.

The weakness of the colony is its greatest danger, and at the same time an inducement for the repetition of similar offences by similar persons; let it therefore be urged upon Her Majesty's government, that sending out colonists rapidly from Great Britain is the surest way, not only of maintaining peace, but of preserving intact Her Majesty's possessions. Coupled with this, the House would propose that free and liberal grants of land be given to such immigrants after settling thereon for a certain time.

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*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, September 3, 1859.*

SIR :                   \*                   \*                   \*                   \*                   \*                   \*

Since my letter of the 18th ultimo I have received a communication from General Harney, acquainting me with the circumstances which induced him to direct the military occupation of the island of San Juan until he should receive further orders from the President, to whom he had submitted the whole matter.

Although I do not feel called upon to express an opinion as to the expediency of the measure adopted by General Harney in advance of the definite settlement of the boundary question, I may venture to assert that the British government have little cause for complaint. They have given instructions to the governor of Vancouver's Island to treat San Juan and the other islands of the Haro Archipelago "as part of the British dominions." They have sent out a commissioner with secret instructions to claim as the boundary that channel which would secure to Great Britain the whole of the Haro Archipelago; and, in the event of failure to induce the American Commissioner to acquiesce in that boundary, he is "at liberty to adopt any other intermediate channel" so as to bring San Juan within the British boundary; but his instructions do not authorize him to adopt the only channel (the Canal de Haro) which would give this valuable island to the United States.

Smith's Island—a small island at the junction of Rosario Straits with the Straits of Fuca—was formerly claimed by the British government. The occupation of it by the United States as a light-house station at once extinguished that claim; and I have no doubt that a similar result would follow the permanent military occupation of the island of San Juan—the treaty giving us as clear and indisputable right to the one as to the other.

The British government, instigated by the Hudson's Bay Company, have long coveted the possession of the island, and it is scarcely to be supposed that they should regard with indifference its unexpected military occupation by its rightful owners, after their success in raising a dispute about its sovereignty, and keeping the settlement of it in abeyance, while they have had the full benefit of its occupancy.

Nothing has occurred at San Juan to alter the peaceful aspect of affairs exist-

ing at the date of my last letter; nor, as I then stated, is there the slightest probability of any action on the part of the British authorities in consequence of the military occupation of the island which would endanger a collision, until further instructions are received from England.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

HON. LEWIS CASS,  
*Secretary of State.*

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*Mr. Campbell to General Harney.*

STEAMER SHUBRICK, SAN JUAN HARBOR.

*August 14, 1859.*

MY DEAR GENERAL: Captain Alden is about to leave the harbor for Fort Vancouver with despatches from Colonel Casey, and I take the opportunity of dropping you a line in relation to the state of affairs resulting from the landing of troops on San Juan Island.

When I learned from Captain Pleasanton that Captain Pickett's company was ordered to San Juan, I thought it was a very proper movement for the protection of American settlers from northern Indians, and from the interferences of the Hudson's Bay Company's agents, who had recently been threatening to take one of the settlers to Victoria for trial. And I did not anticipate from it any serious objection on the part of the British authorities on Vancouver's Island—certainly no forcible opposition—troops at various times having been sent there at intervals, in small detachments, for the protection of settlers against the Indians. But I happened to be making an exploration of the archipelago at the time Captain Pickett arrived, and for several days after he landed I was anchored in this harbor, and I soon saw that it was going to produce great excitement unless it was managed with great discretion. Before I saw Captain Pickett's instructions, I did not suppose it possible that any collision could arise between the United States and English troops; and I took it for granted that his duties would be confined to the objects specified hereinbefore. While the boundary line still remained unsettled, and the commission appointed to determine the boundary line still existed, I did not suppose any resistance would be made by Captain Pickett to the landing of British troops, if they thought proper, as a matter of protection to English subjects on the island, to station a force on the island. It did not seem to me, under present circumstances, that we should be justified in going to the extent of refusing to allow them to land troops for peaceable purposes. I found Captain Pickett had different views, derived from your instructions, which he confidentially showed to me. I perceived that they were susceptible of the interpretation he gave them, though they were not directly mandatory on the subject. And supposing it possible, if not probable, that you might have received instructions from the War Department for the occupation of the island, I felt a delicacy in interfering further in the matter, lest I might be disturbing plans well considered by you and determined on by the government. At the same time, as I had no intimation on the subject from the State Department, I felt considerably troubled lest there might be some misunderstanding.

I was called upon officially by my colleague, Captain Prevost, the British commissioner for the settlement of the water boundary, to take steps individually, or in concert with him, to protest against the armed occupation of the island, it being intimated that British troops would be landed. As I did not consider it

my duty as commissioner to interfere with the operations of the military forces of either government, I declined to take the steps indicated. Thus far no serious results have followed from the presence of troops on the island. But there is a good deal of excitement among the authorities of Vancouver's Island, and doubtless a good deal of mortification. And if I may be permitted to advise, I would recommend caution, so as to prevent, if possible, any collision, which I think under no circumstances ought to be allowed to occur.

However certain may be your conviction that the boundary line, according to the treaty, should run down the Canal de Haro—and I have never hesitated, when asked, to say that such is the ground I have taken as commissioner, and that in this I believe I will be supported by the government—still the question has not been authoritatively decided. And unless you have some intimation from the War Department which has governed your action, I fear that the decided action you have taken in declaring the island American territory may somewhat embarrass the question. I shall be greatly relieved to learn that you have some authority from the government for the decisive step you have taken, though I do not pretend to ask or desire the information in my official capacity. I thought it possible, if you had no directions from home, that you might be in error in some points regarding the joint commission, and therefore have taken the liberty of letting you know that it still exists, notwithstanding the slow progress made in settling the boundary question. I presume Colonel Casey has fully informed you of everything that has taken place since his arrival, and therefore I need say nothing further.

Hoping you will excuse the liberty I have taken in writing thus frankly, I am, my dear general, very respectfully and truly, your obedient servant,

ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY, U. S. A.,  
*Fort Vancouver, W. T.*

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*General Harney to Mr. Campbell.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 16, 1859.*

MY DEAR SIR: Your communication of the 14th instant has just been received, and I hasten to place you in possession of the facts connected with the occupation of San Juan Island by some of the troops of my command. This step would have been taken before, but I was informed you were en route to Washington.

I enclose for your information a copy of a protest issued by Governor Douglas, commander-in-chief of the island of Vancouver, to the occupation of San Juan Island, and claiming the sovereignty of said island for the Crown of Great Britain; also, a copy of my letter to Governor Douglas in reply to his protest.

You will perceive that in my reply to Governor Douglas I charge the British authorities of Vancouver's Island with having violated the rights of American citizens on the island of San Juan in such a manner and by such means as to leave me no other alternative than to occupy the island for the protection of American interests. In assuming this responsibility, I was careful to state distinctly and fully to Governor Douglas the position of my troops on the island of San Juan, and I reiterate to you that the relative claims of the two countries has had nothing to do in the assignment of the troops in question. The British authorities chose to violate treaty stipulations made in good faith and maintained by the United States in good faith, by attempting to arrest an American citizen on San Juan Island, to convey him to Victoria to be tried by British laws. To prevent a repetition of this outrage until the government of the United States



could be apprised of it, I have placed troops on the island, with such orders as I have deemed necessary to effect this object.

With the question of boundary between the United States and Great Britain I disclaim having done anything with respect to it in occupying San Juan Island. Great Britain has no sovereignty over American citizens on San Juan Island, and every attempt made by her authorities to advance such claim I shall resist until further orders from the President, to whom I have submitted the whole matter; in the mean time I trust the labors of your joint commission will be prosecuted amicably and successfully, for I can assure you that no one is more desirous of facilitating your labors than myself.

I am, sir, with high respect, your obedient servant,

WILLIAM S. HARNEY,  
*Brigadier General Commanding.*

ARCHIBALD CAMPBELL, Esq.,

*U. S. Commissioner Northwest Boundary, Harbor San Juan Island.*

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*Mr. Campbell to General Harney.*

CAMP SIMIAHMOO, August 30, 1859.

MY DEAR GENERAL: I had the pleasure of receiving on the 22d instant your letter of the 16th, placing me in possession of the facts connected with the occupation of San Juan Island by some of the troops under your command. For the trouble you have taken to furnish me with this information in the midst of more pressing and important occupations I beg to return you my sincere thanks. Had I known your views earlier, I should have been free from the embarrassment expressed in my letter to you of the 14th instant. The rumor in regard to my departure for Washington City, which prevented your communicating this before, had no foundation whatever.

In a few days I contemplate a trip along the forty-ninth parallel as far as Fort Colville. I shall return to this place *via* the Columbia river towards the middle or close of October, by which time you will probably have received answer to your despatch to Washington, which I trust may be satisfactory to you.

Looking forward with pleasure to meeting you at that time at Fort Vancouver, I am, my dear General, very respectfully and truly, your obedient servant,

ARCHIBALD CAMPBELL.

Brigadier General W. S. HARNEY,

*U. S. Army, Fort Vancouver, W. T.*

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*Mr. Campbell to General Scott.*

FORT WALLA-WALLA,  
October 31, 1859.

MY DEAR GENERAL: I arrived here to-day on my way from Fort Colville to Fort Vancouver, and shall leave day after to-morrow. As I understand from letters received at this post that you will probably be at Fort Vancouver within the next week, I hope to have the pleasure of meeting you there, and avail myself of the express to notify you of my whereabouts, as you may probably desire to see me. Captain Dent will despatch me by the most speedy mode of conveyance within his control, and if no accident delays me, I will be at Fort Vancouver by the 7th proximo.

The late papers which I find here inform me of your mission to the north-

west boundary, and as I deem it important you should be fully informed of the course the British government have pursued to procrastinate the settlement of the boundary between Washington Territory and Vancouver's Island, I hope I may be able to put you in possession of this information before your final determination in regard to the military occupation of San Juan Island, as it may materially affect your views on the question.

I am, my dear General, very respectfully and truly, your obedient servant,  
ARCHIBALD CAMPBELL.

Lieut. General WINFIELD SCOTT,  
*Commanding United States Army.*

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*Mr. Campbell to Mr. Cass.*

FORT WALLA-WALLA,  
November 1, 1859.

SIR: I reached this place yesterday on my way from the 49th parallel, on the Columbia river, to Fort Vancouver, and learn by the newspapers that General Scott has been sent to this coast on a mission connected with the military occupation of San Juan Island. I understand, also, that the General will be at Fort Vancouver in a few days, and I have written to him by express that I will be there on the 7th proximo, as it is probable he may desire to see me, and that I may there find despatches from the Department requiring me to communicate with him on the subject of the water boundary.

I have the honor to be, very respectfully, your obedient servant,  
ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

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*Mr. Campbell to Mr. Cass.*

UNITED STATES BOUNDARY COMMISSION,  
*Camp Simiahmoo, November 15, 1859.*

SIR: I have just arrived at this place, via the Cowlitz River, from Fort Vancouver. Notwithstanding I made all possible despatch to reach the Sound, on learning, through the newspapers, General Scott's mission, I found on my arrival at Olympia, on the 13th instant, that the General had returned to San Francisco on the 11th instant, in the mail steamer.

Since my return from Fort Colville I have received four mails, but no letters from the Department have reached me. I have only time by the return steamer to announce my return from my trip along the boundary line to the Columbia River.

I have the honor to be, very respectfully, your obedient servant,  
ARCHIBALD CAMPBELL,  
*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

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*Mr. Cass to Mr. Campbell.*

DEPARTMENT OF STATE,  
*Washington, September 15, 1859.*

SIR: General Scott has been ordered by the President to take command of our naval and military forces in the neighborhood of the island of San Juan,

on account of the difficulties which have recently occurred in that quarter, in relation to that island. I have to request that you will, without any reserve, show to him all your communications to or from this Department on the subject of the northwestern boundary line, and also extend to him every facility which may be in your power towards the accomplishment of the objects of his mission.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

ARCHIBALD CAMPBELL, Esq., &c., &c., &c.

*Mr. Campbell to Mr. Cass.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Camp Simiahmoo, November 23, 1859.*

SIR: By the arrival of the steamer with the mail from Olympia, I have just received your communication of the 15th of September, directing me to exhibit to Lieutenant General Scott all my communications to and from the Department on the subject of the northwest boundary line, and also to extend to him every facility which may be in my power towards the accomplishment of the objects of his mission.

The letter of the Department is post-marked "St. Helen's, Oregon, Nov. 17," (and franked by Lieutenant General Scott.) This is a post office on the Columbia River, below Fort Vancouver. I have already apprised the Department of the efforts I made to reach the Sound in time to meet General Scott, when I learned at Walla-Walla of his mission to this coast, and also of my failure to to accomplish this object; the General having left for San Francisco before I arrived at Olympia.

I had anticipated the wishes of the Department in respect to an unreserved exhibition of all the correspondence, and documents in my possession, in relation to the boundary line, and regret that it has not been in my power to carry them out in accordance with the instructions just received.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner Northwest Boundary Survey.*

Hon. LEWIS CASS,  
*Secretary of State.*

*Mr. Campbell to General Scott.*

UNITED STATES BOUNDARY COMMISSION,  
*Camp Simiahmoo, November 23, 1859.*

MY DEAR GENERAL: As I closed my letter of this date to Colonel Thomas, the mail steamer from Olympia arrived and brought me a document postmarked "St. Helen's, Oregon, November 17th," franked by yourself. On opening the envelope I found a communication from the State Department, dated September 15th, informing me of your mission, and directing me to exhibit to you, without reserve, all the correspondence between the Department and myself on the subject of the water boundary line; and also to extend to you every facility in my power towards the accomplishment of the objects of your mission.

Having anticipated the wishes of the Department, the instant I heard of your arrival on the coast, I need not assure you how much I regret that circumstances have prevented me from carrying out the instructions of the Department.

I have the honor to be, very respectfully, your obedient servant.

ARCHIBALD CAMPBELL.

Lieutenant General WINFIELD SCOTT,

*Commanding United States Army, San Francisco, California.*

*Mr. Campbell to Mr. Seward.*

UNITED STATES NORTHWEST BOUNDARY COMMISSION,  
*Washington, October 3, 1861.*

SIR: The publication of a recent order of the War Department, for the withdrawal of nearly all the regular force of the United States army on the Pacific coast, made me apprehensive that, through inadvertence, the company of United States troops stationed on the island of San Juan (in joint occupancy with a company of British troops) might be removed therefrom. Upon inquiry at the office of the General in-chief, I learned that such was the fact. The attention of General Scott being called to the matter, he promptly gave orders that the error should be corrected, and a company of regulars continued on the island.

As it is not improbable that the attention of the British government may be drawn to the removal of the United States forces from the Pacific coast, and that they may make inquiry in regard to the company stationed on San Juan Island, I have taken the liberty of making the foregoing communication for the information of the Department.

I have the honor to be, very respectfully, your obedient servant,

ARCHIBALD CAMPBELL,

*Commissioner Northwest Boundary Survey.*

Hon. WILLIAM H. SEWARD,

*Secretary of State.*

*Mr. Seward to Mr. Campbell.*

DEPARTMENT OF STATE,  
*Washington, October 4, 1861.*

SIR: I have to acknowledge the receipt of your letter of yesterday, respecting certain changes that have occurred in the United States military forces at the island of San Juan, and to thank you for the information.

I am, sir, very respectfully, your obedient servant,

WILLIAM H. SEWARD.

ARCHIBALD CAMPBELL, Esq.,

*Commissioner United States Northwest Boundary.*

## EXTRACT FROM LETTER OF THE DEPARTMENT OF STATE.

*Mr. Cass to Mr. Campbell.*

DEPARTMENT OF STATE,  
*Washington, March 3, 1860.*

SIR: Your several communications of 1859, including also the reports of Lieutenant John G. Parke, have been received.

The information which you have timely communicated to the Department has been interesting and important.

The question of the water boundary is now the subject of discussion between this government and that of Great Britain.

It gives me pleasure to inform you that your proceedings have received the commendation of the President.

\* \* \* \* \*

I am, sir, your obedient servant,

LEW. CASS.

ARCHIBALD CAMPBELL, Esq.,  
*Commissioner Northwest Boundary Survey.*

## IV. GEOGRAPHICAL MEMOIR.

## C O N T E N T S.

## MAPS AND CROSS SECTIONS.

Data used in compilation.—Curves, sounding, construction of cross sections.

## CHANNELS.

Channels between Gulf of Georgia and Straits of Fuca.—Strongest currents, principal channels.—Comparison between Canal de Haro and Rosario Strait.

## ARCHIPELAGOES.

Division and location.

## THE NORTHERN ARCHIPELAGO.

*General description.* Boundaries; principal islands; area; topography; timber; grazing; game; Indians; fish; explorations of assistants of the boundary survey; admiralty charts.—*Salt Spring (Admiral) Island.* Boundaries; shape; area; topography; mountains; harbors.—*Prevost Island.* Location; topography; area.—*Saturna Group*, (Saturna, Mayne, and Pender Islands.) Boundaries; topography; area.—*Tumbo Island.* Boundaries; area; topography.—*Galiano Island.* Boundaries; topography; area; mountains.—*Reid Hall, Secretary, and Narrow Islands.* Connection with other islands, forming a chain; location; area; anchorage.—*Kuper Island.* Location; dimensions. *Tent Island—Thetis Island.* Location; harbor; area.

## THE HARO ARCHIPELAGO.

*General Description.* Explorations of Captain Wilkes; names; boundaries of archipelago; islands composing the group; area; importance of its position; channels; harbors; character of the land; topographical features; sheep-raising; coal; limestone; trees; agricultural value; islands belonging to Indians of Washington Territory; military and naval importance of the archipelago; reports of General Smith, Captain Stoneman, Lieutenant Whiting, and General Totten; expeditions of assistants of Boundary Survey; notes of Dr. Kennerly, used in compilation of sketch; confusion in names of localities.—*San Juan* (or *Rodgers's*) *Island.* Boundaries; importance; claimed by the British government; early occupation; sheep-raising; depredations of northern Indians; description of their canoes and prowess and skill in navigation; consternation caused by them in Puget Sound; complaint of Americans; relations between the Hudson's Bay Company and the Indians; Hudson Bay Company's protection of American citizens; conflict of jurisdiction; seizure of Hudson Bay Company's property for taxes; claim against the United States; United States military occupation; causes that led to the occupation; protest of British authorities; mission of General Scott; joint military occupation; area of the island; mountains; prairies; hills; valleys; soil; lakes; water-power; limestone; fishery; harbors.—*Henry Island.* Topographical features.—*Stuart, John's and Spieden Islands.* Location; area of group.—*Stuart Island.* Area; mountain; arable land; harbors; building-stone; fishery. Other islands of the group.—*Waldron Island.* Boundaries; area; geology; arable land; grass; deer.—*Patos (Gourd) Island; Sucia (Percival) Group; Matia (Edmunds) Group; Barnes, Clarke, and Sisters' Islands.* Location; area; sandstone.—*Orcas (Hull) Island.* Boundaries; area; mountain ridges; Mount Constitution; Turtle Mount; shore on Rosario Strait; Ironsides Inlet; Guerriere Bay; Fishtrap Bay; agricultural land; streams; timber; pasturage; deer and elk; soil; rocks; coal.—*Shaw's Island.* Boundaries; area; shape; topography of interior; timber; arable land.—*Obstruction Island.* Location.—*Blakely Island.* Boundaries; shape; mountain peak; area; timber; grass; water-power; lake; grazing.—*Decatur Island.* Boundaries; area; shape; arable land; harbor; shores; land slides; stream; cedars; deer; grazing.—*Lopez (Chauncy) Island.* Boundaries; shape; area; Watmaugh head; harbors; Macedonian Crescent; shores; prairies; timber; streams; wolves; arable land; grazing; fisheries; assumption of jurisdiction by British government; proposition to land British troops on the island.



## GEOGRAPHICAL MEMOIR.

## MAPS AND CROSS-SECTIONS.

Accompanying this memoir is a map to illustrate the water boundary, consisting of the united photographic copies of the three detailed sheets of the boundary maps from Point Roberts to the Pacific Ocean. These sheets were compiled from the data of the United States Boundary Survey, United States Coast Survey, the surveys of Captain G. H. Richards, R. N., published on the Admiralty charts, sketches from the General Land Office, and all available published information. The curve lines, indicating the depths of ten fathoms, twenty fathoms, thirty fathoms, &c., were constructed after a careful study of all the soundings as far as the seventy fathom curve upon the two detailed sheets—the first from Point Roberts to the Straits of Fuca, and the other the Straits of Fuca, (eastern portion,) and were shaded, in order to indicate their relative depths.

Cross-sections on four different parallels of latitude have been constructed to illustrate more clearly the relative depths and widths of the Canal de Haro and Rosario Straits.

## CHANNELS.

The waters separating the islands between the mainland and Vancouver's Island, forming the principal continuous channels south from the Gulf of Georgia to the Straits of Fuca, flow—through Stuart Channel south by the Canal de Haro; through Portier Pass, south by Swanson Channel and Canal de Haro; through Active Pass, south by Swanson Channel and Canal de Haro; through the Canal de Haro; through President's Passage, Ontario Roads and Little Belt Passage; and through Rosario Straits.

In tracing out the ten, twenty, thirty, &c., fathom curve on the map, it appears that the main flow of water between the Gulf of Georgia and the Straits of Fuca is through the Canal de Haro on the west, and Rosario Straits on the east.

The "middle of the channel," the *filum aquæ* or *thalweg*—that is, the line of deepest water, of the Gulf of Georgia, at the 49th parallel of north latitude, is much nearer the island shore of Vancouver's Island than to the main land, as shown by the cross-section on that parallel; and thence curves south close to the shore of Saturna Group, having, opposite Tumbo Island, from 100 to 123 fathoms of water. Here the waters are divided between the two channels, those to the east meeting the counter-flow or counter-acting currents of Rosario Straits from Alden's Bank, and those to the west, turning into the Canal de Haro, between East Point and Patos Island, with a depth of 116 fathoms. Alden's Bank, over which there is only  $2\frac{1}{2}$  fathoms, thus becomes the barrier to the full sweeping current of the Gulf of Georgia, through the eastern channel. This channel may be considered as beginning between Sucia Group and Sandy Point. Between Alden's Bank and Sucia Group the greatest depth is 90 fathoms, or 26 fathoms less than at the entrance of the Canal de Haro.

The cross-section on the parallel of  $48^{\circ} 45'$  shows at a glance the relative depths of the different channels between Vancouver's Island and the mainland. This cross-section is made just north of Lummi and Matia Islands, and represents the Sucia Group as separating the Canal de Haro from Rosario Straits.

The greatest depth of water in the Canal de Haro is 183 fathoms, while in Rosario Straits the deepest water is 60 fathoms, or 123 fathoms less. The Canal de Haro enters the Straits of Fuca with 97 fathoms, while the Rosario Channel enters those straits with 53 fathoms, or 44 fathoms less than the Canal de Haro. Following the soundings along the lines of deepest water in the two channels, the least depth in Rosario Straits is 29 fathoms, and in the Canal de Haro the least depth is 92 fathoms, (just before entering the Straits of Fuca,) a difference of 63 fathoms. *In fact, the least depth along the channel line in the*

*Canal de Haro is greater than the greatest depth in the Rosario Straits.* The average depths, widths, area of cross-sections, and volume of water of the Canal de Haro, are also much greater than those of Rosario Straits, all of which facts show that the Canal de Haro is the main channel between the Gulf of Georgia and the Straits of Fuca. These facts are exhibited in a marked manner by the cross-sections. One of these, previously mentioned, shows the entrances from the Gulf of Georgia: the next is made on the parallel of  $48^{\circ} 35'$ , and crosses Rosario Straits about midway between the Gulf of Georgia and the Straits of Fuca, showing almost the greatest breadth of the islands: and the other on the parallel of  $48^{\circ} 25'$ , just south of Lopez and San Juan islands. This shows the outlets of both the Canal de Haro and Rosario Straits into the Straits of Fuca.

To continue the comparison, it appears that the least breadth of the Canal de Haro is  $2\frac{1}{3}$  miles, (between Stuart and Gooch islands,) and the greatest breadth is 8 miles, (between Discovery island and Eagle Point;) while the least breadth of Rosario Straits is  $1\frac{1}{2}$  mile, (between Cypress and Blakely islands,) and the greatest breadth  $6\frac{3}{4}$  miles, (between Deception Pass and Watmaugh Head.) Further, the Canal de Haro is an open and free channel, with but two exceptions—Unit Rock and the reef off Darcy island; while in Rosario Straits there are many interruptions—Peapod Rocks, Belle Rock, Bird Rock, Kellet Ledge, and Dennis Rock, some of which are directly in mid-channel, and the others close to it; there are, besides, numerous other rocks near the shore. The shores of both the channels are bold; this is in fact the characteristic feature of the shores along all these waters.

It will be seen from the foregoing description that the "middle of the channel," the *thalweg*, or *filum aquæ*—that is, the line of deepest water separating the continent or mainland from the island of Vancouver—passes from the Gulf of Georgia to the Straits of Fuca by way of the Canal de Haro.

#### ARCHIPELAGOES.

The islands between the mainland and Vancouver's Island, from the forty-ninth parallel south to the Straits of Fuca, are divided into two archipelagoes, separated from each other by the Canal de Haro.

#### THE NORTHERN ARCHIPELAGO.

##### GENERAL DESCRIPTION.

The Northern Archipelago extends from the forty-ninth parallel south to the waters of the Canal de Haro, and is bounded on the east by the Gulf of Georgia, and on the west by Swanson channel. The principal islands of the group are, Salt Spring, Prevost, Saturna Group, Galiano, Kuper, and Thetis, which, together with the numerous smaller islands, have a combined area of about one hundred and thirty-five square miles.

All of these islands are timbered, and the smaller ones, with but few exceptions, are level. The timber is not as large as that of the same character generally in that region. Although no prairies were observed, occasionally open spots were seen on the hillsides overgrown with grass that would afford ample grazing for large flocks of sheep. Judging from the numerous deer trails running in all directions, and from the grouse and other small game that was seen, these islands must abound in food for the Indians that inhabit their shores. The Penalahut Indians have one or two villages on different islands, but the principal tribe is that of the Cowitchens. The Cowitchens are very numerous and live principally on the east shore of Vancouver's Island, hunting and fishing through this archipelago.

Fish of several varieties are taken in the numerous harbors and channels, almost without exertion, and with the abundance of clams and oysters that are everywhere found along the shores, this country is a paradise for the Indians.

In the expeditions made by the assistants of the Boundary Survey to this archipelago, the explorations were not so extended as those to the south, and consequently the general description of it is not so thorough. The surveys of this locality, from the English Admiralty charts, furnish much of the data used in this description.

**SALT SPRING ISLAND, (*Admiral Island* of the English Admiralty chart.)**

Salt Spring Island, the largest in the group, is sixteen and a half miles long between Regatta Channel on the south and Southy Point, its most northern extremity, and has an average width of four miles between Stuart Channel on the west and Swanson Channel on the east. Its greatest length is in a north-north-west direction, cut by three or more distinct ridges of mountains that extend partly across the island in a northwest and southeast direction. The area of the island is about sixty-seven square miles, one half of which may be considered fit for cultivation or settlement, being a rolling country, but heavily timbered. The southern and western portion is mountainous, and in the most southern ridge, Mount Bruce, 2,329 feet, is the highest peak on the island. Mount Bruce, Mount Baynes, and Mount Erskine, are prominent peaks of the three ridges. The southern ridge is almost cut off from the island by Burgoyne Bay on the north and west, and Fulford Harbor on the south and east, that extend inland for a considerable distance. These, together with Ganges and Long harbors on the east, and Vesuvius Bay on the west, are the principal harbors of this island.

**PREVOST ISLAND.**

Prevost Island lies to the east of Salt Spring Island, and is separated from it by Ganges Harbor and Captain Passage. Its shores are bold and rocky, with numerous small islands along them that close in the many indentations of the shore, thus forming small harbors. The area of this island is about three square miles, all heavily timbered.

**SATURNA GROUP, (*Saturna, Pender, and Mayne Islands* of the English Admiralty chart.)**

The Saturna Group was for a long time considered as one island, and only from comparatively recent surveys have its limits become known. It is formed by three large islands known on the English Admiralty chart as Saturna and Mayne islands, lying to the east, and Pender Island to the west of Plumper Sound. Plumper Sound is a large body of water dividing the group, and may be considered as the continuation of Swanson Channel, as at the head of the southern island Swanson Channel turns to the south. The southeast portion of this group is rough and mountainous, and the shores are bold, with innumerable small islands and rocks extending along them. Active Pass divides the group from Galiano Island, and with Swanson Channel on its west, and Gulf of Georgia on its east, it has an area of about thirty-three square miles.

**TUMBO ISLAND.**

This island is separated from Saturna by a small channel running east and west, and from its eastern end (Savage Point on the north, and Race Point on the south) the waters of the gulf deepen gradually, forming the western side of the entrance to the Canal de Haro from the Gulf of Georgia. It has an area of only about half a square mile. On the west it has the appearance of a

harbor formed by small islands connected by reefs. This island, Bell Chain, and smaller ones, together with rocks between, form an outer coast, as it were, to the Saturna Group from East Point at the eastern extremity, to Edith Point, the end of the peninsula formed by a harbor extending in a northeast direction.

#### GALIANO ISLAND.

Galiano Island extends from the Saturna Group northward to Portier Pass, which is a little north of the 49th parallel, between Swanson Channel and the Gulf of Georgia. Its eastern shore is bold and comparatively free from rocks or small islands, while on the west there are many indentations, with small islands and rocks near the shore. Parker Island, Wise Island, Walker's Rock, and other islets form a chain from the southern part of this island to Retreat Cove, and from there north it has a bold, regular shore on Swanson Channel. Just north of Retreat Cove is the highest part, and from this cove across to the Gulf of Georgia is the narrowest part of the island. It extends in a northwest and southeast direction, widening out to the south, with two good harbors on each side, formed by Gossip Island on the Gulf of Georgia side and Parker Island on the Swanson channel side. The greatest length of this island is about sixteen miles, and, together with the smaller islands adjacent, has an area of about twenty one square miles, two-thirds of which is mountainous, the mountains, however, rising to no great height, the highest point being about nine hundred feet.

#### REID, HALL, SECRETARY, AND NARROW ISLANDS.

These islands, together with other smaller ones, form a chain of about six and one-half miles long, almost midway of Swanson Channel, lapping the northern end of Salt Spring Island, and extending a short distance north of the forty-ninth parallel. They comprise an area of about three square miles, and present many favorable points for anchorage in the navigation of Swanson Channel.

#### KUPER ISLAND.

Kuper Island is situated just north and west of Salt Spring Island, from which it is separated by Houston Passage, which, running north and south, connects Swanson and Stuart channels. It is about three and a half miles long and one mile wide, with its eastern shore free from smaller islands or rocks, washed by the waters of Houston Passage; while to the west Escape Reef, Hudson Island, and other islands, lie close in on the Stuart Channel shore. At the south of this island, and as it were a continuation of it, separated by a narrow channel, is Tent Island, with an area of about one-third of a square mile.

#### THETIS ISLAND.

Thetis Island is north of Kuper Island, and separated from it by a narrow, crooked channel, connecting Stuart Channel on the west and Swanson Channel on the east. This island is the head of the chain separating the waters forming these two channels, and presents to the north a wide, open harbor between Pilley and Reef points. The island has an area of about four and a half square miles, and is divided by the forty-ninth parallel.

#### THE HARO ARCHIPELAGO.

##### GENERAL DESCRIPTION.

Prior to the explorations of Captain Wilkes, of the United States navy, in 1841, the whole of this group was laid down on the maps as one island, and was known by the name now borne by the principal one of the group, *San Juan Island*.

He was the first explorer who developed the fact of this being an archipelago, and at first contemplated calling it the *Naval Archipelago*, an appropriate completion of the nomenclature of the islands, bays and channels, commemorating the brilliant history of our navy. Subsequently he changed his mind, and gave it the name of the *Haro Archipelago*, in honor of Lopez Gonzales de Haro, the Spanish discoverer.

The Haro Archipelago is bounded on the north by the Canal de Haro and the Gulf of Georgia; on the east by Rosario Strait; on the west by the Canal de Haro; and on the south by the Straits of Fuca. It contains seven prominent islands, viz: San Juan, Waldron, Orcas, Shaws, Blakely, Decatur, and Lopez, besides many small ones, some of them scarcely large enough to be worthy of special notice. The combined area of the islands is about one hundred and seventy square miles.

The archipelago occupies an important position in its relation to the other parts of this region. Lying just north of the eastern end of the Straits of Fuca, through which the currents of Puget Sound, and perhaps also of the Gulf of Georgia, flow during the rise and fall of the tides, it obstructs the currents flowing to and from the Gulf of Georgia, giving them various courses by deflection, and often producing, in many places, tide-rips sufficiently extensive to endanger small craft.

The islands are separated by narrow but very deep channels, so deep indeed that the largest class vessels can pass through almost any of them. This is the character of almost every narrow channel separating islands lying between the continent and Vancouver's Island, and has led many a sailor to compare these waters to the Straits of Magellan, where it is often difficult to find anchorage.

In circumnavigating the archipelago scarcely a harbor is to be found capable of accommodating vessels of even ordinary size, although there are many places where anchorage may be found, and where vessels could lie in safety, under the lee of some island, during storms from certain quarters. But within the nest, as it were, there are some of the most beautiful harbors in the world. There is among them a perfect network of channels, all sufficiently deep to be navigated by the largest vessels, and unobstructed by rocks, except in a few localities which are marked on the chart.

Of the entire area of the islands, it is estimated that about sixty square miles is arable land, and about eighty square miles is pastoral land, covered with nutritious grass, which retains its verdure nearly throughout the year. The remainder is principally covered with forests of the coniferous trees of that region, consisting of fir, pine, and cedar, which on some portions of the islands attain great size and beauty. Part of that which is described as arable and pastoral land is also timbered to some extent, and would necessarily have to be cleared before the soil could be cultivated. The islands are well watered by lakes and running streams. Although the portion of open country is small, yet distributed over the whole group are patches of prairie land, smooth, swelling slopes, and mountain sides covered with luxuriant grass to their summits, giving to wild and solitary tracts a pleasingly rural aspect.

A noticeable feature in the topography of these islands is the peculiarity that the mountains at the northern end are almost universally the most elevated, and gradually diminish in height toward the south. Another striking feature is that the southern slopes are almost invariably destitute of timber, but are covered with a luxuriant growth of grass. This peculiarity is so striking as to attract the attention of all who traverse these waters, and in spring time and early summer, when the grass is green and the flowers are in bloom, the prospect is enchanting. The absence of trees in these localities may be attributed to the fact that the soil is very shallow, overlying masses of rock, but sufficiently deep to sustain grass, assisted by the direct rays of the sun.

These islands are particularly adapted to raising sheep, as has been fully



demonstrated by the Hudson's Bay Company on San Juan Island. The mutton of Vancouver's and San Juan islands is remarkable for its delicacy of flavor, which may be accounted for by the peculiar properties of the grazing. The same favorable circumstances exist on the other islands, a mild climate, absence of beasts of prey, (except on Lopez Island,) and an abundance of sweet nutritious grass, even to the summits of the mountains, during nearly the entire year. The deer on the islands were found in midwinter in most excellent condition. On San Juan Island the sheep increased so rapidly it was difficult to find fresh pasturage for them near the Hudson's Bay Company's establishment. The average net weight of the sheep when full grown and fat is fifty pounds; of the fleece three and a half pounds.

Coal and limestone are found on several of the islands. Fisheries were formerly carried on at several localities, and they could easily be made very productive and profitable. Trees of great value for their timber, lumber, and resinous properties, grow on all the larger islands.

Although much of the land is mountainous and only adapted to grazing purposes, these islands are as valuable, agriculturally, as the settled portions of Vancouver's Island, which they resemble in general character.

It might be mentioned, incidentally, that these islands for the most part belong to the Indians of Washington Territory, the Lummies claiming Orcas, Blakely, Decatur, and a part of Lopez, and the Clallams a part of San Juan. The whole inside of the northeastern part of San Juan formerly belonged to a tribe kindred to the Lummies, and now extinct.

It is in a military and naval point of view, however, that this archipelago possesses the greatest value, embracing as it does some of the finest harbors in the territory, commanding Bellingham Bay and Admiralty Inlet, and in fact forming the key to the whole of the Puget Sound district. The interior passages and bays are capable of being entirely closed by fortifications, which is not the case with our other possessions on the Sound, and the islands themselves command all the adjacent waters. They are in fact the only check upon the preponderance which the ownership of Vancouver's Island gives to Great Britain in this quarter.

Frequent allusion has been made in the discussion of the water boundary question to the military importance of the Haro Archipelago, and extracts have been made from reports of General Persifer F. Smith, and Captain Stoneman, and Lieutenant Whiting, on the subject \*

General Totten, Chief Engineer of the United States army, made a tour of inspection to this region in 1860, and, in his report to the War Department, says:

The fitness of this island [San Juan] for a permanent fortification, or for a military station of any kind, depends upon its relation to so much of our water frontier as lies along the Straits of Fuca, and its water communications with the Gulf of Georgia.

This particular subject was, therefore, kept in mind while I was pursuing my general examination of the northwest coast. It directed the particular course of my inspections of those waters, and led me to extend my explorations as high up as Fraser's River.

I find nothing in the magnitude, form, or position of San Juan Island that will admit of treatment for such a purpose, separate from general military considerations, those only with which I have anything to do; and I now proceed to give, as briefly as I can, the convictions that have arisen in my mind after mature reflection.

Great Britain, by owning the whole of Vancouver's Island, of which the southern shore bounds the Straits of Fuca on the north, possesses, just within its southern extremity, the admirable man-of-war harbor of Esquimaux; and she now occupies it as a naval station, having present there at the time of my visit one line-of-battle ship and four war steamers. This harbor has, in a high degree, every internal convenience—facility of ingress and egress at all times, and perfect defensibility at a moderate cost, by fortifications, should such defence be considered necessary at any future time.

My first remark on these circumstances is, that, possessing Esquimaux harbor, the ownership of the San Juan archipelago, or of that island alone, is not necessary to Great Britain



for her own occupation, either for defensive or offensive purposes; because, while occupying Esquimault harbor, and enjoying naval superiority, she will command completely, so far as local position can enable her, the Straits of Fuca and all other waters within Cape Flattery, including Puget Sound, Admiralty Inlet, and all the channels and passages of the San Juan archipelago. All our commerce and communications therein will be interrupted, or exposed to the greatest hazards.

With superiority afloat, she will need no fortifications in the archipelago in order to command the passages. Its quiet and pleasant waters may be much resorted to by her cruisers, but the place of refreshment, rendezvous, and, if need be, of refuge, will, because there can be no better, be Esquimault itself. Indeed, a fortified anchorage at San Juan Island, for instance, would not be essentially nearer, and would no better overlook our harbors of Dungeness, Port Discovery, Sequim Harbor, Admiralty Inlet, Puget Sound, &c., &c., than that of Esquimault.

Neither does Great Britain need San Juan Island, nor any other island in the group, for the purpose of defending by fortifications her communications with the Gulf of Georgia. Such a system would demand numerous works to overlook the many navigable passages through the group, while the same naval force that will be indispensable for other purposes will be precisely the best description of force for this defence, and for the interception of, and resistance to expeditions from our distant shores.

If, therefore, the archipelago be assigned to Great Britain, it will hardly be the seat of any naval or military establishment. Possibly, with the growth of the country, some establishments there may be deemed to need slight defences against predatory raids; but nothing of that sort can occur within any reasonable time; and nothing is likely to happen in that way to bear upon our present question. But even if it be her wish to fortify there, her desire to retain the island arises, I am convinced, much less from a belief that such a military or naval station is necessary to her interest in that region than from a knowledge that to us they will afford military advantages quite important, and not otherwise to be had.

This leads me to remark, in the second place, that by the establishment of the division line between the two countries, in the Straits of Haro, we shall, in some sort, have compensation for the advantages Great Britain enjoys by owning the whole of Vancouver's Island, and maintaining a predominant naval force at its southern extremity, since it will then be in our power to react with more or less effect, according to our energy and enterprise, upon these interior waters, by securely fortifying an anchorage at San Juan Island, or some other place close upon the Haro Channel.

The presence, under the shelter of such fortifications, of fast, armed steamers, would exercise an important influence upon the communications between the Straits of Fuca and the Gulf of Georgia, Fraser river, &c.; would at all times threaten and harass this communication; and completely command it, whenever it should happen to be without the actual presence of a strong convoy.

It is easy to see that no such effects could be looked for, with the naval mastery against us, if our nearest fortified position were some forty or fifty miles distant from the main channel—which will be the case if the Rosario Strait is to become the boundary.

My conclusions, from these and such like considerations, are that the possession of the San Juan group of islands is, strategically, of high importance to us; that without this possession, there can be no escape or relief from the paralysis that adverse naval predominance will impose on all our coasts and waters inside of Cape Flattery; and that, so far as considerations of a different nature admit, or can be materially aided by such influences, this importance can hardly have too much weight given to it. (Congressional Globe, 36th Congress, 1st session, p. 2562.)

During the time that the Boundary Commission wintered at Camp Simiahmoo, when active operations along the line of survey had to be suspended, and at other convenient opportunities, a number of expeditions were made to these islands by several of the assistants, chiefly for the purpose of collecting natural history information. From their notes, more particularly from those made by Dr. C. B. R. Kennerly, the Surgeon and Naturalist, this general description of the islands is compiled.

It is much to be regretted that a more uniform system has not been adopted in regard to the names given to localities in this region. Many of the islands and channels have two, and in some cases even three names attached to each of them. If the names given by the early Spanish navigators were to be dropped, it is unfortunate that those given by Captain Wilkes should not have been perpetuated. On the chart of the United States Coast Survey, (published some twelve years after Wilkes,) the names he had given were, in many instances, omitted, and in other instances changed. The late British charts have, to a certain extent, ignored both Wilkes and the Coast Survey in this respect.

It is but just and proper to retain the names of Captain Wilkes in all cases, except where the names given by the Spanish discoverers are well established. This plan is adopted in the brief sketch herewith presented.

SAN JUAN ISLAND, (*Rodgers Island* of Captain Wilkes)

San Juan Island is bounded on the south and west by the Canal de Haro; on the north by Spieden Channel; and on the east by President's Passage, Ontario Roads, and Little Belt Passage.

It is the most important island of the Haro group, on account of its geographical position, amount of valuable land, and the prominence that has been given to it by the boundary dispute, and its joint military occupation by the United States and Great Britain. It was the first island of the group that the British government attempted to make a dependency of Vancouver's Island, by occupation through the Hudson's Bay Company, and assumption of jurisdiction over it; and now that their claim to all the islands of the archipelago lying east of it has been virtually abandoned, it is the only one of importance to which even a quasi claim by that government is maintained.

In December, 1853, the Hudson's Bay Company sent one of their clerks from Victoria to establish a station on San Juan. This movement was doubtless accelerated by the passage of a law in 1852-'53 by the territorial legislature of Oregon, embracing the Haro Archipelago in one of its counties.

The raising of sheep had been so successfully carried on at Vancouver's Island, it was determined to make use of this island for the same purpose, and a flock of sheep was landed at the same time that the company's agent took up his residence on the island. This may be considered the first permanent occupation of San Juan, although for a number of years previous it had been temporarily occupied by them as a fishing station during the short season when salmon are taken.

The Hudson's Bay Company's movement was soon followed by citizens of Washington Territory, and a custom-house agent was also placed upon the Island by the collector of Port Townshend. The insecurity and danger arising from the depredations of the Indians who came down from the Russian and British possessions at the north, in their immense war canoes, forced our citizens to abandon their attempts at settlement. The Hudson's Bay Company people, however, do not seem to have experienced the same danger, and their establishment went on prosperously.

When these northern Indians start out upon their trading and marauding expeditions with a fleet of canoes, varying in number according to the object and extent of their excursions, they present a truly formidable array. Their canoes, made from the single trunk of the giant cedar of their country, are of the most beautiful model and workmanship; they are from seventy-five to one hundred feet in length, and will carry from fifty to sixty persons, and a plentiful supply of arms, ammunition, and stores. They have been known to capture large vessels. An idea may be formed of the seaworthiness of these craft, and of the Indians' skill in navigating them, from the fact that they make voyages along the coast of over five hundred miles in extent, and go far out to sea in pursuit of the whale. These canoes, propelled by fifty or sixty paddles, are driven through the water with great speed.

The appearance of these "vikings" of the northwest in the waters of Puget Sound formerly spread consternation among the few settlers in that region, and more especially among the Indians there, so inferior in all respects to their hated northern enemies.

It was often made the cause of complaint by the American citizens that these pirates received too friendly a welcome at the Hudson's Bay Company's station on Vancouver's Island, where the authorities seemed to accord to them bellig-

erent rights, and afforded them harbors from which to sally forth in their depredations—advantages similar to those enjoyed by the rebel privateers during the late rebellion. Allowance, however, should be made for the excited state of feeling naturally arising from the fact that while the American citizens were being plundered and murdered, the Hudson's Bay Company were almost entirely exempt from these outrages, and comparatively on friendly terms with the Indians, whose incursions may be said to have had for their object plunder of Americans, and traffic with the Hudson's Bay Company. The more correct explanation of their different treatment of the Americans and British subjects, however, is the latter's greater strength and more politic management of the Indians. And it is only justice to record the fact that United States citizens on San Juan Island have, on several occasions, received the willingly accorded protection of the Hudson's Bay Company's agent.

The first conflict of jurisdiction on the island occurred in 1855. The property of the Hudson's Bay Company was assessed in the same manner as other property within the limits of United States territory. The company refused to pay the taxes, when the sheriff of Whatcom County levied upon and sold enough sheep to satisfy the demand. An enormous claim for damages against the United States on the part of the Hudson's Bay Company followed, which remains unsettled to this day, and is, of course, utterly invalid, if the island belongs to the United States.

No further conflict seems to have taken place until July, 1859, when representation was made to General Harney, commanding the Military Department of Oregon, that it was contemplated by a civil officer of the British government on the island to arrest an American citizen for some alleged offence and carry him to Victoria, the seat of government of Vancouver's Island, for trial. The settlers also reported that there was not sufficient security on the island against the depredations of northern Indians. These combined statements had sufficient weight with General Harney (who seemed satisfied that there could be no doubt that the island belonged to the United States) to induce him to send a company of infantry there for the protection of United States citizens. The troops landed on the 26th of July. The British authorities protested against this military occupation, and events soon transpired of such a character as caused the General to add to the company originally placed there all the available troops in Washington Territory. In the mean time a British naval force was kept at anchor in the harbor. The feeling excited by this movement among the people of both countries resulted in the President's sending out General Scott, in September, 1859, to make some amicable arrangement until the question of sovereignty should be settled by the two governments.

The result of General Scott's mission was a proposition on his part for the withdrawal of all the United States troops, except one company, as originally placed there; and a joint occupancy by the British government with a similar force. The governor of Vancouver's Island replied to this proposition that he had not the authority to accept it; but he gave assurance that no attempt would be made to interfere with the United States troops until he could hear from the home government. The United States troops were accordingly withdrawn, except one company. In March, 1860, the British government sent a company of marines to the northern part of the island, and there established a military post.

The island is still held by this joint military occupation, in accordance with the proposition made by General Scott, and subsequently acquiesced in by the representative of the British government.

San Juan Island is the most western of the Haro group, and has an area of about fifty-four square miles. Its greatest length is about fourteen and a half miles; its general shape being very irregular, the width varies at different localities; its widest part is about six and a half miles. Low ranges of hills trend along its eastern and western shores, those on the western side being the high-

est, Mount San Juan, in this range, having an elevation of about one thousand feet. These ranges slope out toward the north, and there are no elevations of any consequence on the northern shore of the island. Between these hill ranges, near the centre of the island, lies a basin-like country, gently undulating in its character. There are extensive prairies in several localities, and from the south end of the island to within a short distance of its northern extremity flocks can feed on green grass almost throughout the year. The greatest amount of arable land is found within the southern third of the island.

Bellevue prairie, situated on the lower end of the island, is about two miles long by half a mile wide. Oak prairie, which takes its name from the groves of oak scattered over it, containing about one thousand acres, is bounded on the north and west by the hills along the west shore that extend across the island at its greatest width. Some of these hills are grassy to their summits, while others are more or less timbered. Immediately north and west of these hills lies a beautiful valley, stretching towards the north end of the island. The southern end of this valley contains several hundred acres of meadow land, but on the north it is heavily timbered. The land contained in it is all apparently fertile, and around it the hills are covered with a luxuriant growth of grass. This valley lies immediately opposite to Heury Island and adjacent to good harbors.

The northern end of the island contains much good land, now covered by a heavy forest, but when divested of this it can be brought into profitable cultivation. In this region there is a grove of large cedars very valuable for lumber. One-third of the entire area of this island, or about twelve thousand acres, is well adapted to cultivation, and nearly all the remainder to pastoral purposes. The soil of the arable portions is excellent, with the exception of Bellevue prairie, which is somewhat gravelly.

Upon this island are at least four beautiful lakes. From some of these flow rivulets of sufficient size and force to produce good water power; but as yet there are no inducements for the erection of mills, as the lumber of the adjacent shores of Puget Sound is superior to that of the island, the latter having all more or less suffered from frequent conflagrations; but in a few years more, when the husbandman shall begin to receive returns for his labors in rich crops of grain, some of these sites may be selected for erecting mills to prepare the produce for distant markets.

A circumstance of great importance, in connection with this island, is the existence upon it of extensive deposits of limestone. It is to be found near the southern end, in the vicinity of the Hudson's Bay Company's station. On the western shore, near the base of Mount San Juan, immense masses raised up into perpendicular walls are seen at several localities, covering an area of many acres. The northeastern corner of the island is composed of an extensive ledge of the same material. A very small island, (O'Neal's,) lying close to the northeast end of San Juan Island, containing only a few acres, is composed almost entirely of limestone. Tested by acid and burning, it proved to be of a superior quality. It exists in sufficient quantities not only for lime, but might be profitably quarried for building-stone. The value of these deposits can better be appreciated from the fact that up to the time of the discovery of limestone on this island it was not known to exist at any point on Puget Sound, within United States territory, and for building purposes it was necessary to procure all the lime used, from California or Vancouver's Island.

In the vicinity of the southern end of the island are, perhaps, the best fishing grounds on Puget Sound. Great quantities of halibut, codfish, and salmon, are taken by the numerous tribes of Indians who, at the proper season, resort to this vicinity for the purpose of fishing. The Hudson's Bay Company were formerly in the habit of putting up at this place from two to three thousand barrels of salmon alone, which were bought from the natives. Persons supplied with the proper appliances for carrying on a fishery would find it a very profitable vocation.

At the southern end of the island there is a large bay, known as Ontario Roads, where vessels are well protected from the prevailing storms of this region. The water near the shore is not deep, and should it ever be desirable to build a wharf at this point it would require one several thousand feet in length to reach three fathoms at low water. The entrance to this roadstead from the Straits of Fuca is through a very narrow but deep channel, known as Little Belt Passage, separating this island from Lopez Island. It is a very convenient and favorite resort for vessels escaping from storms which, often in winter season, very suddenly arise on Fuca Straits. On the northwestern end of the island are several bays, well protected by Henry Island, forming good harbors for vessels of light draught.

#### HENRY ISLAND.

This is a small island, lying close to the northwestern shore of San Juan Island, containing about one thousand acres. Its topographical features resemble that portion of San Juan adjacent to it, and may be considered as a part of that island.

#### STUART, JOHN'S, AND SPIEDEN ISLANDS.

These islands, and several islets, lie immediately north of San Juan Island, to the south and east of the Canal de Haro and west of President's Passage. Spieden Channel separates them from San Juan island, and they are separated from each other by several small and intricate passages. Their combined area is about six square miles.

*Stuart*, the most northern of the group, is the largest; it lies about midway between the southern end of Saturna and northern end of San Juan, and has an area of about  $3\frac{1}{2}$  square miles. At its western end there is a mountain peak five or six hundred feet in height, from the summit of which there is a good view of the entire island, as well as of a large extent of the surrounding country. It contains but a few hundred acres of arable land, the island being rough and hilly; it has two beautiful little harbors, one at its north side, and the other at its southeastern side, upon the shores of which are magnificent quarries of sandstone and slate. These materials, so valuable for building purposes, are very limited in quantity throughout Washington Territory, and a locality like this is, therefore, of great value. On one of the harbors are extensive Indian fisheries. The other islands of this small group appear to be comparatively unimportant.

#### WALDRON ISLAND.

Waldron island lies to the south and east of the Canal de Haro, and north and west of President's Passage, and contains about five square miles. Its southern end consists of a perpendicular bluff of sandstone and conglomerate nearly two hundred feet in height. The eastern shore, composed of the same material, as far as the northeast end of the island, is bold and uninviting. Strong tidal currents sweeping through the narrow passage between this and Orcas Island are gradually changing its character. While this portion is hilly, the western half is low land, and when divested of the forest which covers it, might yield abundant crops if subjected to cultivation. Within this region is a small grassy prairie containing about one hundred acres. The hills on the eastern half of the island contain much good grass. The island has no harbor, although good anchorage in calm weather may be found all along its southern and western shores.



PATOS ISLAND, (*Gourd Island* of Captain Wilkes.)—SUCIA GROUP, (*Percival Group* of Captain Wilkes.)—MATIA GROUP, (*Edmund's Group* of Captain Wilkes.)—BARNES, CLARKE, AND SISTERS ISLANDS.

This chain of islands lies at the south end of the Gulf of Georgia, and forms the breakwater which divides it into the two channels which surround the Haro Archipelago. Their combined area is about two and one-half square miles. The sandstone, which is the principal geological formation, is too soft to be valuable as a building material, and in the places where it is exposed to the action of the waves it is worn into deep hollows.

ORCAS ISLAND, (*Hull's Island* of Captain Wilkes.)

Orcas island lies immediately south of the chain of islands already mentioned as breaking the continuous flow of the waters of the Gulf of Georgia into the Straits of Fuca, and to the north of Shaw's, Lopez, and Blakely islands. It is bounded on the east by Rosario Strait, and on the west by President's Passage, which separates it from San Juan Island. It is the largest and, with the exception of San Juan, the most valuable island in the archipelago. At its northern end it is about four miles wide, and then runs off towards the southeast and southwest, making its greatest width from east to west about thirteen miles, and its greatest length from north to south about nine miles, containing an area of about fifty-five square miles.

There are two main ridges of mountains trending in a general direction a little east of south, and west of north, which are in many places exceedingly precipitous and rugged. The eastern range, bordering on Rosario Strait, is much the higher, Mount Constitution, its highest peak, having an elevation of 2,500 feet. The highest peak in the corresponding western range is Turtle Mountain, 1,600 feet in height.

Between Point Thompson, the northeastern point, and Point Lawrence, the most eastern point, the shore is so rocky and inhospitable that anywhere along it even small boats would fail to find a safe harbor or anchorage. From Point Lawrence to Obstruction Passage the coast is much less bold, and contains several little bays, into which pour rivulets from the mountains, watering small but beautiful valleys.

There are two large bays and one small one on the southern side of the island. Ironsides Inlet, the most eastern, is the largest. It is about a mile wide, varies in depth from five to fifteen fathoms, and extends about seven miles into the island, within a mile of its northern end, thus nearly cutting it into two. Guerriere Bay, about three miles to the westward, is about three miles in length and a mile and a quarter in width, and has a depth of from five to fifteen fathoms. Both of these bays are excellent harbors. There is a small triangular bay known as Fishtrap, extending a short distance into the southwestern end of the island, with its greatest depth ten fathoms.

Within Ironsides Inlet, particularly toward its northern end, are several beautiful spots of agricultural land, and good timber, having the advantage of being immediately adjacent to an excellent harbor. Streams having their sources in lakes in the mountain gorges empty into the bay. One of the most pleasing prospects in this region, and especially along the shores of Orcas Island, is the frequent recurrence of beautiful cascades.

A stream of water, after traversing for several miles a beautiful valley containing some very good meadow land, empties in Guerriere Bay near its head. The largest stream on the island empties into Fishtrap Bay. The land in this vicinity is beautifully located and well adapted to agricultural purposes.

Between this place and the extreme western point of the island there is scarcely a locality of agricultural value; but leaving this and travelling towards Point Doughty, after passing one mountain range, we enter a region where the land becomes level, and the soil rich and productive.



There are some few localities—one or two on Ironsides Inlet, and one at least on Guerriere Bay—where there is excellent water power, but the timber is not of the best quality at those points, as the Indians, and white men too, in search of deer, have, from time to time, fired the forest, thus greatly injuring the growth of the trees. Doubtless, hereafter, when the more desirable lumber of other localities, especially on the adjacent shores of Puget Sound, has become somewhat exhausted, mills will be erected on these beautiful harbors.

A very important feature of this island is the excellent pasturage which exists on the mountain slopes. The grass is green during every month of the year; and on the south side of Mount Constitution even, almost to the very summit. Sheep, goats and cattle placed upon the island would thrive and multiply, without the necessity of special care, as there are no beasts of prey to molest them. Deer and elk are the only quadrupeds of the larger species on the island, and a few years ago these were very numerous. The latter are now rarely seen, and the former are year after year rapidly disappearing before the approach of the white man, and in a few seasons will not be seen upon the island.

While the lower lands present the character of alluvials, the mountains are composed of trap syenite and quartz and afford no valuable stone for building purposes.

A deposit of coal is found near Point Doughty, at the northwest end of the island, similar to that at Nanaimo, on Vancouver's Island, and at Bellingham Bay, on the mainland. The extent of this deposit is not known, but, should future explorations make as favorable developments as are anticipated, a railroad of three or four miles could be easily constructed that would convey the coal to the excellent harbor of Ironsides Inlet.

#### SHAW'S ISLAND.

Shaw's Island lies south of the west end of Orcas Island, from which it is separated by Harney Channel, and is bounded on the east by Frolic Strait, separating it from Lopez Island; and on the south and west by President's Passage, separating it from San Juan Island. It contains about eight square miles. It is of very irregular shape, and its shores are indented by numerous small bays. In its interior there are no prominent peaks, though the surface is uneven and much broken by hills and valleys; the latter are small and generally very swampy, and are rendered almost impassable by thorny bushes everywhere heaped up in tangled masses. In many places it is almost as difficult to traverse the higher ground, owing to the undergrowth, which consists mainly of small pines and firs. The timber, consisting of fir and cedar, is small and scattered. Here and there are small patches of arable land which, in the aggregate, would hardly exceed 300 acres on the entire island.

#### OBSTRUCTION ISLAND.

This is a small island between Rosario Strait on the east and Ironsides Inlet on the west, and is separated by narrow passages from Orcas Island on the north, and Blakely Island on the south.

#### BLAKELY ISLAND.

Blakely Island lies immediately south of Obstruction Island, from which it is separated by a narrow passage, and is bounded by the same bodies of water as the latter on the east and west, and is separated by Thatcher's Pass from Decatur Island on the south. This island in its general shape is nearly square; (it is a little longer from north to south than from east to west.) It rises from the water almost like a pyramid, its highest peak, which is about 1,050 feet high, being a little north of the centre of the island. It contains about 6½

square miles, and throughout its extent is mountainous and rugged, presenting but few localities of even very limited area which might be profitably cultivated. Its shores are all more or less precipitous and rocky. The timber has been much injured by frequent fires, and for this reason there are no inducements for lumbermen. At least in one place (perhaps in more) there is excellent water power. Grass flourishes on the slopes of the mountains. Near the centre of the island is a beautiful lake of crescentic form, about two miles in length, and four or five hundred yards in width; its outlet is a rapid stream of considerable force which empties into a small bay on the southwestern side of the island.

The only profitable purpose to which this tract of land could be placed would be that of grazing. In this particular it possesses the advantages enumerated on Orcas Island.

#### DECATUR ISLAND.

Decatur Island lies immediately south of Blakely, from which it is separated by Thatcher's Pass; it is bounded on the east by Rosario Strait; on the south and west by Macedonian Crescent, a bay lying between it and Lopez Island.

The area of this island is about four square miles; its extreme length from north to south being about  $3\frac{1}{2}$  miles, and its width about two miles. In its general shape it is quadrangular, resembling Blakely Island. About one-fourth or more of its area is low land, well adapted to cultivation. On its eastern side there is a harbor well protected by its natural configuration from the prevailing southerly winds, and a small island known as James's, immediately adjacent to it in Rosario Strait, leaves it only exposed to storms from the northeast, from which quarter violent winds very rarely blow in this region.

The shores are generally abrupt and precipitous; those on the north being rocky, while those on the south are composed of alternate layers of sand and clay, and their bold bluffs show the continuous action of the waves, which for ages have been violently dashing against them. Evidences of land slides of limited extent, which have occurred apparently very recently, give further proof that the billows are gradually changing them to such an extent that in a few more years their contour will be so much altered that their present topographical features will be no longer recognizable.

Several small streams empty into the bay mentioned as existing on the eastern side of the island, and in this vicinity there is much good cedar timber, which, growing in the low and moist lands, has escaped the repeated fires which have swept through the forest.

The abundance of deer always found upon this island is evidence of its valuable grazing properties.

LOPEZ ISLAND, named after Lopez de Haro, (*Chauncey Island* of Captain Wilkes.)

Lopez Island is bounded on the north by Frolic Strait and Ironsides Bay, on the east by the Macedonian Crescent and Rosario Strait; south by Rosario Strait, and west by Little Belt Passage and Ontario Roads, which separate it from San Juan Island. It is very irregular in shape, being characterized, especially on its eastern shore, by deep indentations, which in their formation seem to follow no regular law. Its greatest length from north to south is about ten miles; its greatest width from east to west about four miles, and it has an area of about twenty-eight square miles. At its southern end the land rises into a mound which is nearly five hundred feet in height, known as Watmaugh Head, and is a very prominent landmark for vessels in the Straits of Fuca. The southern coast is abrupt and broken, while to the north there are land-locked bays and beautiful harbors. A body of water lying to the west of Blakely and Decatur

islands, and bounded on the south and west by Lopez Island, called the Macedonian Crescent, is an extensive and well-protected harbor. This bay is studded with small islands covered with verdure.

In many places on the eastern side of Lopez Island the shore is rocky, but on its western side, the soil being alluvial, by washing away it has become in many places high, perpendicular bluffs. The interior of the island contains much level land well adapted to cultivation, and near its centre is a prairie of nearly a square mile in extent; there is also a smaller one near its northern extremity. As on the other islands mentioned, the timber has been much injured by fire. There are scarcely any trees of large size upon the island except in a few low and swampy places. It is not very difficult to traverse much of its extent, especially about its centre, but near the northern end tangled bushes and fallen timber render it a difficult matter, with great toil and trouble, to accomplish more than a mile an hour.

There are permanent streams of water in several localities, and in many places, where the land might be too rocky for profitable cultivation, there is always good grass. Upon this island alone of the entire group was found any positive evidence of the existence of beasts of prey. Wolves are numerous, and of the largest species known to exist on our continent. Why they should be found here and not on Orcas and other islands of the archipelago, is somewhat remarkable. Formerly there were a few of these animals on San Juan Island, but in a very short time after its occupation by white men they almost entirely disappeared, and are now no longer any annoyance to flocks. So it will be on Lopez after a few persons have taken up their abode there.

One-third of the area of this island, perhaps, might be subjected to cultivation, but the greater part of this is still covered with trees, which it would require much labor to clear away. Much of the remaining two-thirds, although rocky, is covered with grass enough to support many hundreds of sheep and cattle.

On its eastern and southern sides there are good fishing grounds, where the Indians yearly take great numbers of salmon and halibut. At one of these localities, on the eastern side, there exists a small but very shallow bay, into which empties, perhaps, the largest stream of the island. At this place the Hudson's Bay Company formerly had a small trading station.

It appears from a report made by Captain Alden, of the United States navy, that in 1853 an American citizen took up a claim on this island for the purpose of getting out timber, and that Governor Douglas, of Vancouver's Island, forced him to take out a license from the British government, and demanded that when his vessel took the timber away she should clear at the Victoria custom-house.\*

When the exciting subject of the occupation of San Juan island by United States troops, in the summer of 1859, was under discussion in the Vancouver's Island Legislature, Mr. Pemberton, one of the members, proposed that British troops should be landed on Lopez Island.

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\* See page 87, Discussion of the Water Boundary Question.

[36th Congress, 1st session.—Senate Ex. Doc. No. 10.]

*Message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 9th instant, the Correspondence of Lieutenant General Scott, in reference to the Island of San Juan, and of Brigadier General Harney, in command of the Department of Oregon.*

*To the Senate of the United States:*

I transmit herewith a report of the Secretary of War, with accompanying papers, in answer to the resolution of the 9th instant, requesting the President "to communicate to the Senate the official correspondence of Lieutenant General Winfield Scott, in reference to the island of San Juan, and of Brigadier General William S. Harney, in command of the Department of Oregon."

JAMES BUCHANAN.

WASHINGTON, *January 30, 1860.*

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WAR DEPARTMENT, *January 25, 1860.*

SIR: In answer to the resolution of the Senate of the 9th instant, referred by you to this department, I have the honor to transmit herewith copies of the correspondence with Lieutenant General Winfield Scott and Brigadier General William S. Harney, in reference to the recent difficulties at San Juan Island, together with all other papers of interest in possession of this department relating to the subject.

Very respectfully, your obedient servant,

JOHN B. FLOYD,  
*Secretary of War.*

The PRESIDENT.

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*List of papers relating to the recent difficulties at San Juan Island, accompanying the report of the Secretary of War of January 25, 1860.*

1. Mr. Marcy to Mr. Stevens, July 14, 1855.
2. Same to Mr. Crampton, July 17, 1855.
3. General Harney to Colonel Casey, July 18, 1859.
4. Same to Captain Pickett, July 18, 1859.
5. Same to General Scott, July 19, 1859.
6. Mr. Drinkard to General Harney, September 3, 1859.
7. General Harney to General Scott, August 1, 1859, enclosing petitions of citizens at San Juan.
8. Same to the Adjutant General, August 7, 1859, enclosing letters—
  - a. From Colonel Casey, July 31, with enclosures from Captain Pickett;
  - b. From Captain Pickett, August 3, covering correspondence with Captain Hornby;
  - c. Proclamation of Governor Douglas;
  - d. Reply to same, August 6;
  - e. To Captain Pickett, August 6;
  - f. To commander of the Pacific squadron, August 7; and
  - g. To General Clarke, August 7.
9. Same to same, August 8, 1859.
10. Mr. Drinkard to General Scott, September 16, 1859.
11. General Harney to same, August 18, 1859, enclosing letters—
  - a. To Colonel Casey, August 8;

- b.* From same, August 12, covering correspondence with Admiral Baynes;
- c.* From same, August 14;
- d.* To same, August 16;
- e.* From Governor Gholson, August 11; and
- f.* To Mr. Campbell, August 16.
- 12. Same to the Adjutant General, August 25, 1859, with enclosures—
  - a.* From Governor Douglas, August 13;
  - b.* Reply, August 24;
  - c.* Governor Douglas's message;
  - d.* Debate thereon;
  - e.* Article from the "British Colonist."
- 13. Same to same, August 29, 1859.
- 14. Same to General Scott, August 30, 1859, enclosing letters from Colonel Casey, August 22.
- 15. Same to Colonel Casey, September 2, 1859.
- 16. Same to General Scott, September 14, 1859, enclosing—
  - a.* Affidavit of Mr. Hubbs;
  - b.* Affidavit of Mr. Cutler;
  - c.* Letter from Mr. Hubbs.
- 17. Governor Gholson to General Harney, August 21, 1859.
- 18. General Harney to Mr. Floyd, October 10, 1859, enclosing letters—
  - a.* From Mr. Campbell, August 14;
  - b.* From same, August 30.
- 19. General Scott to the Adjutant General, October 22, 1859.
- 20. Same to same, October 26, 1859.
- 21. Same to Mr. Floyd, October 27, 1859.
- 22. General Harney to General Scott, October 29, 1859, enclosing letter from Colonel Casey, October 28.
- 23. General Scott to Mr. Floyd, December 8, 1859, with enclosures—
  - a.* Letter to Governor Douglas, October 25;
  - b.* Memorandum by Colonel Lay, October 26;
  - c.* From Governor Douglas, October 29;
  - d.* To same, November 2;
  - e.* Projet of settlement;
  - f.* From Governor Douglas, November 3;
  - g.* To same, November 5;
  - h.* Special Orders, November 5;
  - i.* From Governor Douglas;
  - j.* From same, November 7, with enclosure;
  - k.* To Governor Douglas, November 9, with enclosure;
  - l.* To Captain Hunt, November 9;
  - m.* To Colonel Casey, November 9;
  - n.* General Thomas to General Harney, November 9;
  - o.* General Scott to General Harney; and
  - p.* Special Orders.
- 24. General Harney to General Scott, November 17, 1859.

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1. *Mr. Marcy to Mr. Stevens.*

DEPARTMENT OF STATE,  
Washington, July 14, 1855.

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He [the President] has instructed me to say to you that the officers of the territory should abstain from all acts on the disputed grounds which are calculated

to provoke any conflicts, so far as it can be done without implying the concession to the authority of Great Britain of an exclusive right over the premises.

The title ought to be settled before either party should exclude the other by force, or exercise complete and exclusive sovereign rights within the fairly disputed limits. Application will be made to the British government to interpose with the local authorities on the northern borders of our territory to abstain from like acts of exclusive ownership, with the explicit understanding that any forbearance on either side to assert the rights, respectively, shall not be construed into any concession to the adverse party.

By a conciliatory and moderate course on both sides, it is sincerely hoped that all difficulties will be avoided until an adjustment of the boundary line can be made in a manner mutually satisfactory. The government of the United States will do what it can to have the line established at an early period.

I am, sir, your obedient servant,

W. L. MARCY.

His Excellency I. I. STEVENS,  
*Governor of Washington Territory, Olympia.*

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2. *Mr. Marcy to Mr. Crampton.*

DEPARTMENT OF STATE,  
*Washington, July 17, 1855.*

SIR: I am under some apprehension that collision may take place between our citizens and British subjects in regard to the occupation of the disputed points along the line between Washington Territory and the British possessions on the north of it.

In the hope of avoiding such a difficulty, I have, by the direction of the President, addressed a letter to the governor of that Territory on the subject, and herewith furnish you with an extract from it. I presume that the government of Her Britannic Majesty will be willing to recommend to her subjects along the boundary in question a similar course until the line can be established. In that way I sincerely hope all collision may be avoided.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c.

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3. *General Harney to Colonel Casey.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., July 18, 1859.*

SIR: By Special Orders No. 72, herewith enclosed, you will perceive the General Commanding has withdrawn the garrisons from Bellingham and Townsend, and has placed the steamer *Massachusetts* under your orders for the better protection and supervision of the waters of Puget Sound.

To carry out these instructions with more effect, the General Commanding desires me to communicate to you the following directions: The steamer *Massachusetts* will proceed without delay to Bellingham, to be used in establishing company "D" 9th infantry on San Juan Island; after which she will convey company "I" of the 4th infantry to Steilacoom, when the company you assign for service on the steamer will be embarked under your supervision. Article 37, general regulations: Troops on board of transports will, as far as



practicable, govern in the disposition of the company on board. As no surgeon is available for the ship, medical attendance will be obtained at Fort Steilacoom or San Juan Island, when required; medical supplies, however, with directions for use, will be furnished by your medical officer for such probable cases of danger as will require immediate attention.

After the ship has received the necessary stores and supplies, she will be instructed to cruise in the Sound among the islands frequented by the northern Indians, who will be warned not to come into any of the waters under the jurisdiction of the United States, which embraces all the islands and currents to the east of the Straits of Haro.

Any opposition by these Indians will be speedily checked, and the requirements of these instructions will be maintained by force, if necessary. The ordinary rendezvous of the steamer Massachusetts, for wood and water, will be San Juan Island; and should the commander of that island desire the assistance of any force from the ship for purposes connected with the defence of the island, the officer in command of the ship will be instructed to furnish the force and co-operate with the troops in all measures requiring its safety and protection. At the end of every two months the ship will visit Fort Steilacoom to obtain supplies, and for the muster and inspection required by the regulations. The command on the steamer Massachusetts will be borne on the post return of Fort Steilacoom, as a component part of its garrison.

In the ordinary cruising of the Sound, the ship will be propelled by sail only, but at least four days' fuel for steam will be kept constantly on board, to be used whenever necessity requires celerity of motion. The ship will visit the light-houses on the Sound in her cruises, and furnish them any protection that may be needed. As the ship is mounted with eight thirty-two pounders, and the proper ammunition has been provided, the crew will be instructed, under the direction of the master of the vessel, in their use, to obtain the most efficient action from all parties in cases requiring it. Whenever circumstances occur requiring a deviation from the tenor of these instructions, you are authorized to use your own discretion and judgment in the matter, reporting the occurrence to this office. The General Commanding is pleased to communicate his confidence in the zeal, energy, and intelligence you exercise in the discharge of your duties to the service, and he rests assured the details transmitted in this communication will be rendered with satisfaction and advantage to such worthy qualities.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain 2d Dragoons, Acting Asst. Adj't General.*

Lieut. Colonel S. CASEY,

*Ninth Infantry, Commanding Fort Steilacoom, Puget Sound.*

#### 4. General Harney to Captain Pickett.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., July 18, 1859.*

CAPTAIN: By Special Orders No. 72, a copy of which is enclosed, you are directed to establish your company on Bellevue or San Juan Island, in some suitable position near the harbor at the southeastern extremity. The General Commanding instructs me to say the object to be attained in placing you thus is two-fold, viz:

First. To protect the inhabitants of the island from the incursions of the northern Indians of British Columbia and the Russian Possessions. You will not permit any force of these Indians to visit San Juan Island or the waters of Puget Sound in that vicinity over which the United States have any jurisdic-

tion. Should these Indians appear peaceable you will warn them in a quiet but firm manner to return to their own country, and not visit in future the territory of the United States; and in the event of any opposition being offered to your demands, you will use the most decisive measures to enforce them; to which end the commander of the troops stationed on the steamer *Massachusetts* will be instructed to render every assistance and co-operation that will be necessary to enable your command to fulfil the tenor of these instructions.

Second. Another serious and important duty will devolve upon you in the occupation of San Juan Island, arising from the conflicting interests of the American citizens and the Hudson's Bay Company establishment at that point. This duty is to afford adequate protection to the American citizens in their rights as such, and to resist all attempts at interference by the British authorities residing on Vancouver's Island, by intimidation or force, in the controversies of the above-mentioned parties.

This protection has been called for in consequence of the chief factor of the Hudson's Bay Company, Mr. Dallas, having recently visited San Juan Island with a British sloop-of-war, and threatened to take an American citizen by force to Victoria for trial by British laws. It is hoped a second attempt of this kind will not be made, but to insure the safety of our citizens the General Commanding directs you to meet the authorities from Victoria at once, on a second arrival, and inform them they cannot be permitted to interfere with our citizens in any way. Any grievances they may allege as requiring redress can only be examined under our own laws, to which they must submit their claims in proper form.

The steamer *Massachusetts* will be directed to transport your command, stores, &c., to San Juan Island, where you are authorized to construct such temporary shelter as the necessities of the service demand.

Any materials, as doors, window-sash, flooring, &c., that can be rendered available will be taken with you from Fort Bellingham. To secure to your command the vegetables of your garden a small detachment will be left to gather them when grown.

The General Commanding is fully satisfied, from the varied experience and judgment displayed by you in your present command, that your selection to the duties with which you are now charged will advance the interests of the service, and that your disposition of the subjects coming within your supervision and action will enhance your reputation as a commander.

In your selection of a position, take into consideration that future contingencies may require an establishment of from four to six companies retaining the command of the San Juan harbor.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain 2d Dragoons, Acting Assistant Adjutant General.*

Captain GEORGE PICKETT,

*Commanding Company D 9th Infantry,*

*Fort Bellingham, Puget Sound.*

##### 5. General Harney to General Scott.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., July 19, 1859.*

SIR: \* \* \* \* \*

On the morning of the 9th instant I left Victoria and visited Bellevue, or San Juan Island, about ten miles to the east of Vancouver's Island, on the opposite side of the Straits of Haro. This island is fifteen miles long and five or six broad. It contains fine timber, good water and grass, and is the most com-

manding position we possess on the Sound; overlooking the Straits of Haro, the Straits of Fuca, and the Rosario Strait, it is the most suitable point from which to observe and prevent the northern Indians from visiting our settlements to the south of it. At the southeastern extremity one of the finest harbors on this coast is to be found, completely sheltered, offering the best location for a naval station on the Pacific coast.

The Hudson's Bay Company have an establishment on this island for the purpose of raising sheep, which they export at eight dollars a head. Twenty-five Americans, with their families, are also living upon the island, and I was petitioned by them, through the United States inspector of customs, Mr. Hubbs, to place a force upon the island to protect them from the Indians, as well as the oppressive interference of the authorities of the Hudson's Bay Company at Victoria, with their rights as American citizens. Mr. Hubbs informed me that a short time before my arrival the chief factor of the company at Victoria, Mr. Dallas, son-in-law of Governor Douglas, came to the island in the British sloop-of-war *Satellite*, and threatened to take one of the Americans by force to Victoria, for shooting a pig of the company. The American seized his rifle and told Mr. Dallas if any such attempt was made he would kill him on the spot. The affair then ended. The American offered to pay to the company twice the value of the pig, which was refused.

To prevent a repetition of this outrage, I have ordered the company at Fort Bellingham to be established on San Juan Island for the protection of our citizens, and the steamer *Massachusetts* is directed to rendezvous at that place with a second company to protect our interests in all parts of the Sound.

\* \* \* \* \*

I am, sir, very respectfully, your obedient servant,

WILLIAM S. HARNEY,

*Brigadier General, Commanding.*

The ASSISTANT ADJUTANT GENERAL,

*Headquarters of the Army, New York City.*

#### 6. *Mr. Drinkard to General Harney.*

WAR DEPARTMENT, *September 3, 1859.*

SIR: Your despatch of the 19th of July last, addressed to the General-in-chief, has been forwarded to this Department, and laid before the President for his consideration.

The President was not prepared to learn that you had ordered military possession to be taken of the island of San Juan or Bellevue. Although he believes the Straits of Haro to be the true boundary between Great Britain and the United States, under the treaty of June 15, 1846, and that, consequently, this island belongs to us, yet he had not anticipated that so decided a step would have been resorted to without instructions. In cases respecting territory in dispute between friendly nations it is usual to suffer the *status* of the parties to remain until the dispute is terminated one way or the other, and this more especially while the question is pending for decision before a joint commission of the two governments. If you had good reason to believe that the colonial authorities of Great Britain were about to disturb the *status*, by taking possession of the island and assuming jurisdiction over it, you were in the right to anticipate their action. \* \* \* \* \* The President will not, for the present, form any decided opinion upon your course on the statement of facts presented in your despatch. He will await further details, which he expects to receive from you by the next steamer. He is especially anxious to

ascertain whether, before you proceeded to act, you had communicated with Commissioner Campbell, who could not then have been distant from you, and who was intrusted by this government, in conjunction with the British commissioner, to decide this very boundary question.

In the meantime care ought to be taken to apprise the British authorities that possession has thus been taken solely with the view of protecting the rights of our citizens on the island, and preventing the incursions of the northern Indians into our territory, and not with any view of prejudging the question in dispute or retaining the island should the question be finally decided against the United States.

Very respectfully, your obedient servant,

W. R. DRINKARD,

*Acting Secretary of War.*

Brigadier General WM. S. HARNEY,

*Commanding Department of Oregon, Fort Vancouver.*

### 7. General Harney to General Scott.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 1, 1859.*

SIR: I have the honor to enclose, for the information of the General-in-chief, a copy of a petition of the American citizens on San Juan Island, Puget Sound, for protection from the constant incursions of marauding Indians.

The requirements of this petition were anticipated by the establishment of company D, 9th infantry, upon the island, and the disposition of the steamer Massachusetts to act in concert with that company, as contained in Special Orders No. 72 from these headquarters, a copy of which order has already been transmitted to your office.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General, Commanding.*

ASSISTANT ADJUTANT GENERAL,

*Headquarters of the Army, New York City.*

### 7 a.

SAN JUAN ISLAND, July 11, 1859.

To General Harney, Commander-in-Chief

*of the Pacific Division of the United States Army:*

The undersigned, American citizens on the island of San Juan, would respectfully represent: That in the month of April, in the year one thousand eight hundred and fifty-eight, the house of the United States inspector of customs for this island was attacked and fired into in the night by a party of Indians living on this island, and known as the Olallams, and had it not been for the timely aid of the Hudson's Bay Company, the inspector would have fallen a victim to their savage designs. In the month of July following we found on the beach, close to the above-mentioned Indian camp, the bodies of two white men, apparently Americans, who had, when found, cotton cords about their necks which had been used to conceal them under water. Last fall another daring murder was committed in the middle of the day, and in the plain sight of us all here, without the slightest chance of our rendering them assistance. Only ten days ago another body was found on our shore which had been the

victim of foul play. Inclusive with the above dangers that we are exposed to from our neighboring Indians, we are continually in fear of a descent upon us by the bands of marauding northern Indians, who infest these waters in large numbers, and are greatly retarding the progress of the settlement of this island.

According to the treaty concluded June 15, 1846, between the United States and Great Britain, (the provisions of which are plain, obvious, and pointed to us all here,) this and all the islands east of the Canal de Haro belong to us; we therefore claim American protection in our present exposed and defenceless position.

With a view of these facts, and for the essential advantage of having this and the surrounding islands immediately settled, we most earnestly pray that you will have stationed on this island a sufficient military force to protect us from the above-mentioned dangers until we become sufficiently strong to protect ourselves.

J. M. Haggaret.  
 Samuel McCauley.  
 J. E. Higgins.  
 Chas. H. Hubbs.  
 L. A. Cutlar.  
 William Butler.  
 J. D. Warren.  
 H. Wharton, jr.  
 John Witty.  
 B. S. Andrews.  
 John Hunter MacKay.

Noil Ent.  
 Michael Farris.  
 George Perkins.  
 Alex. McDonald.  
 Peter Johnson.  
 Angus McDonald.  
 William Smith.  
 Charles McCoy.  
 D. W. Oakes.  
 Paul K. Hubbs, jr.  
 Paul K. Hubbs.

#### 8. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 7, 1859.*

COLONEL: I have the honor to enclose, for the information of the War Department, a copy of a proclamation of Governor Douglas, of Her Britannic Majesty's island of Vancouver, also a copy of my reply to the same, with a copy of a letter I have addressed to the senior officer of our navy on this coast, requesting him to send a proper force to observe the British vessels-of-war, which are being used to threaten, with attempts to intimidate, our people on the Sound.

I have also the honor to enclose a correspondence between Captain George Pickett, 9th infantry, commanding on San Juan Island, and Captain Hornby, the senior officer commanding her Majesty's ships Tribune, Plumper, and Satellite.

The threatening attitude the British authorities have seen proper to assume, has caused me to order Lieutenant Colonel Casey to re-enforce Captain Pickett with his three companies from Fort Steilacoom, which post will be occupied by four companies of the 3d artillery from Fort Vancouver until further orders.

In my report of July 19, 1859, to the headquarters of the army, I stated I had ordered the company from Fort Bellingham to San Juan Island to protect the American citizens residing on that island from the insults and indignities which the British authorities of Vancouver's Island did not hesitate to offer them on every occasion. On my visit to San Juan Island, mentioned in that report, the United States inspector of customs on the island, Mr. Hubbs, made an official complaint in behalf of the American citizens of the outrages perpetrated upon them by the British authorities of Vancouver's Island, who are connected with the Hudson's Bay Company establishment, and who have a sheep farm on the island. This company pretend to own the whole island, which is some fifteen or twenty miles long, and five or six broad—while their improvements on the island are a few old houses, and some small fields under enclosure.

A week or ten days ago, before my arrival on that island, one of the Americans shot a pig belonging to the Hudson's Bay Company, after having been greatly provoked by the person in charge, to whom he had applied to have the pig secured, as it damaged his fields. This request was treated with contempt, and the pig was shot, the American offering twice the value for the animal, which was refused. The next day the British ship-of-war *Satellite*, with Mr. Dallas on board, who is the chief factor of the Hudson's Bay Company, and a son-in-law of Governor Douglas, visited the island, and threatened to take the American to Victoria, by force, for trial. The American resisted, seized his rifle, and in return told Mr. Dallas he might take him, but he would kill him first. I was also informed that the Hudson's Bay Company had threatened, at different times, to send the northern Indians down upon them, and drive them from the island. This statement has since been confirmed to me by some of the most reliable citizens of the Sound. I felt it my duty, therefore, to give these citizens the protection they sought with such just and pressing claims.

Governor Douglas is the father-in-law of Mr. Dallas, and, having the local rank of vice-admiral, he commands the British navy in the Sound. This accounts, in some measure, for the use of the British ships of war in the supervision of the interests of the Hudson's Bay Company. To attempt to take, by an armed force, an American citizen from our soil, to be tried by British laws, is an insult to our flag, and an outrage upon the rights of our people, that has roused them to a high state of indignation. I, therefore, most respectfully request the President to consider the necessities for an increased naval force on this station, to give confidence to the people that their rights will be respected.

It would be well for the British government to know the American people of this coast will never sanction any claim they may assert to any other island in Puget Sound than that of Vancouver's, south of the 49th parallel, and east of the Canal de Haro; any attempt at possession by them will be followed by a collision.

I desire to assure the department that while there is no one more desirous than myself for an amicable settlement of the difficulties raised by the British authorities of Vancouver's Island, at this time, I shall use all the means at my command to maintain the position I have assumed in regard to San Juan Island, being fully convinced that whatever respect and consideration might have been yielded to the statements of a doubtful claim advanced in due form, have been forfeited by the overbearing, insulting, and aggressive conduct Her Majesty's executive officers have displayed, not only towards our citizens, but to the officer commanding our troops at San Juan.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General, Commanding.*

Colonel S. COOPER,

*Adjutant General, Washington City, D. C.*

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8 a.

FORT STEILACOOM, W. T., *July 31, 1859.*

CAPTAIN: I have the honor to report that I have despatched the Massachusetts to-day with Major Haller's company I, 4th infantry, for San Juan Island. I sent, also, on the same steamer, Lieutenant Shaff and twenty men, to report for duty with the Boundary Commission, at Simiahmoo.

I have directed the acting assistant quartermaster at this post to forward to San Juan the articles which Captain Pickett informed me he required, and which could be spared from this post. I have also directed the steamer to take



from Fort Townsend a small boat and some tarpaulins, which are much needed at San Juan.

I have directed, in case contrary orders are not received from department headquarters, that the steamer Massachusetts shall stop at Fort Townsend, in returning to this post, on the 31st proximo, (for the muster and inspection of the company,) and take on board all the public property and the detachment of men, and convey them to this post.

I directed that one sergeant and two privates be left there until further orders, to take charge of the public quarters and gardens.

I have enclosed, for the information of the General, copies of communications which have passed between Captain Pickett and the agent of the Hudson's Bay Company at San Juan, also a note which I received from the captain. Not having been informed of the tenor of Captain Pickett's instructions, I could not, of course, advise him with regard to them. The authorities on the other side are trying to bluff a little, but I do not apprehend anything serious.

Very respectfully, your obedient servant,

SILAS CASEY,

*Lieutenant Colonel 9th Infantry, Commanding Post.*

Captain ALFRED PLEASANTON,

*Acting Assistant Adjutant General U. S. A.,*

*Department of Oregon, Fort Vancouver, W. T.*

[Enclosures.]

1. Captain Pickett to Colonel Casey, July 30.
2. Mr. Griffin to Captain Pickett, July 30.
3. Captain Pickett to Mr. Griffin, July 30.

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8 a 1.

MILITARY CAMP,

*San Juan Island, W. T., July 30, 1859.*

MY DEAR COLONEL: I have the honor to enclose you some notes which passed this morning between the Hudson's Bay authorities and myself. From the threatening attitude of affairs at present, I deem it my duty to request that the Massachusetts may be sent at once to this point. I do not know that any actual collision will take place, but it is not comfortable to be lying within range of a couple of war steamers. The Tribune, a 30-gun frigate, is lying broadside to our camp, and from present indications everything leads me to suppose that they will attempt to prevent my carrying out my instructions.

If you have any boats to spare I should be happy to get one at least. The only whale-boat we had was, most unfortunately, staved on the day of our departure.

We will be very much in want of some tools and camp equipage. I have not the time, colonel, to make out the proper requisition, but if your quartermaster can send us some of these articles it will be of great service.

I am, sir, in haste, very truly, your obedient servant.

G. E. PICKETT,

*Captain 9th Infantry.*

Lieutenant Colonel S. CASEY,

*Ninth Infantry, Commanding Fort Steilacoom, W. T.*

P. S.—The Shubrick has rendered us every assistance in her power, and I am much indebted for the kindness of officers.

8 a 2.

BELLEVUE FARM, *San Juan, July 30, 1859.*

SIR: I have the honor to inform you that the island of San Juan, on which your camp is pitched, is the property and in the occupation of the Hudson's Bay Company, and to request that you and the whole of the party who have landed from the American vessels will immediately cease to occupy the same. Should you be unwilling to comply with my request, I feel bound to apply to the civil authorities. Awaiting your reply,

I have the honor to be, sir, your obedient servant,

CHAS. JNO. GRIFFIN.  
*Agent Hudson's Bay Company.*

Captain PICKETT, &c., &c., &c.

8 a 3.

MILITARY CAMP,  
*San Juan, W. T., July 30, 1859.*

SIR: Your communication of this instant has been received. I have to state in reply that I do not acknowledge the right of the Hudson's Bay Company to dictate my course of action. I am here by virtue of an order from my government, and shall remain till recalled by the same authority.

I am, sir, very respectfully, your obedient servant,

GEORGE E PICKETT,  
*Captain 9th U. S. Infantry, Commanding.*

Mr. CHARLES J. GRIFFIN,

*Agent Hudson's Bay Company, San Juan Island, W. T.*

8 b.

MILITARY POST,  
*San Juan, W. T., August 3, 10 p. m.*

CAPTAIN: I have the honor to report the following circumstances: The British ships the Tribune, the Plumper, and the Satellite are lying here in a menacing attitude. I have been *warned off* by the Hudson's Bay agent; then a summons was sent to me to appear before a Mr. De Courcey, an official of Her Britannic Majesty. To-day I received the enclosed communications, and I also enclose my answer to same.

I had to deal with three captains, and I thought it better to take the brunt of it. They have a force so much superior to mine that it will be merely a mouthful for them; still I have informed them that I am here by order of my commanding general, and will maintain my position if possible.

They wish to have a conjoint occupation of the island; I decline anything of that kind. They can, if they choose, land at almost any point on the island, and I cannot prevent them. I have used the utmost courtesy and delicacy in my intercourse, and, if it is possible, please inform me at such an early hour as to prevent a collision. The utmost I could expect to-day was to suspend any proceeding till they have time to digest a *pill* which I gave them. They wish to throw the onus on me, because I refused to allow them to land an equal force, and each of us to have military occupation, thereby wiping out both civil authorities.

I say I cannot do so until I hear from the General.

I have endeavored to impress them with the idea that my authority comes directly through you from Washington.

The "Pleiades" left this morning for San Francisco with Colonel Hawkins.

The excitement in Victoria and here is tremendous. I suppose some five hundred people have visited us. I have had to use a great deal of my *peace-making* disposition in order to restrain some of the sovereigns.

Please excuse this hasty, and I am almost afraid unintelligible letter, but the steamer is waiting, and I have been writing under the most unfavorable circumstances. I must add that they seem to doubt the authority of the General Commanding, and do not wish to acknowledge his right to occupy this island, which they say is in dispute, unless the United States government have decided the question with Great Britain. I have so far staved them off, by saying that the two governments have without doubt settled this affair; but this state of affairs cannot last, therefore I most respectfully ask that an express be sent me immediately on my future guidance. I do not think there are any moments to waste. In order to maintain our dignity we must occupy in force, or allow them to land an equal force, which they can do now, and possibly will do in spite of my diplomacy.

I have the honor to enclose all the correspondence which has taken place. Hoping that my course of action will meet with the approval of the General Commanding, and that I may hear from him in regard to my future course at once, I remain, Captain, your obedient servant,

G. E. PICKETT,

*Captain 9th Infantry, Commanding Post.*

Captain A. PLEASANTON,

*Mounted Dragoons, Adjutant General,*

*Department of Oregon, Fort Vancouver, W. T.*

[Enclosures.]

1. Captain Hornby to Captain Pickett, August 3.
2. Captain Pickett to Captain Hornby, August 3.
3. Captain Hornby to Captain Pickett, August 3.
4. Same to same, August 3.
5. Captain Pickett to Captain Hornby, August 3.

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8 b 1.

HER MAJESTY'S SHIP TRIBUNE,

*Griffin Bay, Island of San Juan, August 3, 1859.*

SIR: Having received instructions from His Excellency Governor Douglas to communicate with you in reference to the landing of the United States troops under your command on the island of San Juan, I have the honor to propose a meeting should take place between yourself and any other officers of the United States military forces on the one part, and captains of Her Britannic Majesty's ships on the other, (on board Her Majesty's ship Tribune,) at any hour that may be convenient to you, that we may, if possible, conclude such arrangements as will tend to preserve harmony between the subjects of the two states in this island.

I have the honor to be, sir, your obedient servant,

GEOFFREY PHIPPS HORNBY, *Captain.*

Captain PICKETT,

*Commanding Detachment U. S. Troops, Island San Juan.*

8 b 2.

MILITARY POST,  
*San Juan, W. T., August 3, 1859.*

Our communication of this instant, favored by Lieutenant Dunlop, has  
 been received. I have the honor to say, in reply, that I shall most cheerfully  
 receive myself, and whatever officers of Her Majesty's service that you may  
 bring to my camp, at whatever hour you may choose to designate. Be assured  
 that I wish corresponds with yours to preserve harmony between our respective  
 Governments.

I remain, sir, very respectfully, your obedient servant,

GEORGE E. PICKETT,  
*Captain 9th United States Infantry, Commanding.*

to PHIPPS HORNBY,

*Commanding her Britannic Majesty's Ship Tribune,  
 Harbor of San Juan, Washington Territory.*

8 b 3.

HER MAJESTY'S SHIP TRIBUNE,  
*Griffin Bay, Island of San Juan, August 3, 1859.*

In reply to your letter of this morning, I have to inform you that I  
 have myself the honor of calling on you at 2 p. m., in company with the  
 officers of Her Britannic Majesty's ships.

I have the honor to be, sir, your obedient servant,

G. PHIPPS HORNBY, *Captain.*

to PICKETT,

*Commanding Detachment of U. S. Troops, Island of San Juan.*

8 b 4.

HER MAJESTY'S SHIP TRIBUNE,  
*San Juan Island, August 3, 1859.*

In accordance with your request for a written communication, I have  
 the honor to transmit the substance of the declarations and propositions made  
 to you to-day.

I have drawn your attention to the extract of a despatch from Mr. Marcy,  
 Secretary of State, to His Excellency Governor Stevens, dated July 14, 1855,  
 regarding the conduct that should be pursued by the officers of the United  
 States in respect of the disputed grounds, I asked if that was the tenor of your  
 instructions, or if the relations of the two States had been placed on  
 an amicable footing by any of a more recent date.

As you replied by referring to the date of the despatch.

I then asked you, in the name of Governor Douglas, the terms on which you  
 occupied the island of San Juan; to which you replied that you did so by  
 virtue of the "General Commanding," to protect it as a part of the United States  
 Territory, and that you believed he acted under orders from the government at  
 Washington.

I then presented to you the Governor's protest against any such occupation.  
 I then represented to you that the fact of occupying a disputed island by  
 any force necessitated a similar action on our part; that again involved  
 the imminent risk of a collision between the forces, there being a magistrate of

each nation now acting on the island, either of whom might call on those of their country for aid.

To prevent the chance of such collision, I suggested that a joint military occupation might take place, and continue until replies could be received from our respective governments; and, during such times, that the commanding officers of the forces should control and adjudicate between their respective countrymen, the magistrates being withdrawn on both sides, or the action of their courts suspended for the time being, their employment not being necessary under a joint military occupation.

I suggested this course as apparently the only one left (short of entire evacuation by the troops under your command) likely to produce the object so much to be desired, viz: the prevention of a collision between the forces or authorities of the two countries, landed or in the harbor of San Juan, an event which must lead to still more disastrous results, by permanently estranging the friendly relations subsisting between Great Britain and the United States of America.

You replied that you had not authority to conclude such terms, but suggested the reference of them to General Harney and Governor Douglas, without interference in any way with our liberty of action.

I pointed out that my proposition was strictly in accordance with the principles laid down in Mr. Marcy's despatch, and that yours, on the other hand, offered no security against the occurrence of some immediate evil.

That as officers of the United States government had committed an act of aggression by landing an armed force on this island pending the settlement of our respective claims to its sovereignty, without warning to us, and without giving you a discretionary power of making any necessary arrangements, that the United States and its officers alone must be responsible for any consequences that might result, either immediate or future.

I agreed to your request to furnish you with the substance of the conversation in writing, and concluded by informing you that having now made what seemed to me a most equitable and simple proposition, I reserved to myself, in the event of your non-acceptance of it, entire liberty of action either for the protection of British subjects and property, or of our claims to the sovereignty of the island, until they are settled by the Northwestern Boundary Commission now existing, or by the respective governments.

I believe I have now given you the substance of our conversation, and have only to add my regret that you were not able to agree to a course which it appears to me would totally avoid the risk of a collision.

The responsibility of any such catastrophe does not, I feel, rest on me or on Her Majesty's representative at Vancouver's Island.

I have the honor to be, sir, your most obedient, humble servant,  
**GEOFFREY PHIPPS HORNBY,**  
*Captain and Senior Officer.*

**Captain GEORGE PICKETT,**  
*Commanding Detachment of United States 9th Regiment.*

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8 b 5.

MILITARY POST,  
*Island of San Juan, W. T., August 3, 11 p. m.*

SIR: I have the honor to acknowledge the receipt of your communication of this date, in reference to the conversation which was held to-day between ourselves and Captains Prevost and Richards. Your recollection of said conversation seems to be very accurate. There is one point, however, which I dwelt upon particularly, and which I must endeavor, as the officer representing my government,

to impress upon you, viz : That, as a matter of course, I, being here under orders from my government, cannot allow any joint occupation until so ordered by my commanding general, and that any attempt to make any such occupation as you have proposed, before I can communicate with General Harney, will be bringing on a collision which *can* be avoided by awaiting this issue. I do not for one moment imagine that there will any difficulty occur on this island which will render a military interference necessary; and I therefore deem it proper to state that I think no discredit can reflect upon us, or our respective flags, by remaining in our present positions until we have an opportunity of hearing from those higher in authority.

I hope, most sincerely, sir, you will reflect on this, and hope you may coincide with me in my conclusion. Should you see fit to act otherwise, you will then be the person who will bring on a most disastrous difficulty, and not the United States officials.

I have thus hurriedly answered your communication in order to avoid any delay and its consequences.

I remain, with much respect, your obedient servant,

GEORGE E PICKETT,

*Captain 9th Infantry, Commanding Post.*

Captain G. PHIPPS HORNBY,

*Commanding Her Britannic Majesty's Ship Tribune,*

*Harbor of San Juan, Washington Territory.*

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8 c.

By JAMES DOUGLAS, C. B., Governor and Commander-in-chief in and over the Colony of Vancouver's Island and its dependencies, Vice-admiral of the same, &c.

The sovereignty of the Island of San Juan, and of the whole of the Haro Archipelago, has always been undeviatingly claimed to be in the Crown of Great Britain. Therefore, I, James Douglas, do hereby, formally and solemnly, protest against the occupation of the said island, or any part of the said archipelago, by any person whatsoever, for or on behalf of any other power, hereby protesting and declaring that the sovereignty thereof by right now is, and always hath been, in Her Majesty Queen Victoria and her predecessors, Kings of Great Britain.

Given under my hand and seal, at Victoria, Vancouver's Island, on this second day of August, one thousand eight hundred and fifty-nine, and in the twenty-third year of Her Majesty's reign.

[SEAL]

JAMES DOUGLAS.

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8 d.

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 6, 1859.*

SIR: I have the honor to inform you of the receipt of an official copy of a protest made by you to the occupation of San Juan Island, in Puget Sound, by a company of United States troops under my command.

This official copy was furnished by Captain Hornby, of Her Majesty's ship Tribune, to the United States officer in command at San Juan Island, Captain George Pickett, of the 9th infantry of the American army, together with a communication threatening a joint occupation of San Juan Island by the forces



of Her Majesty's ships Tribune, Plumper, and Satellite, now in the harbor of that island by your orders.

As the military commander of the Department of Oregon, assigned to that command by the orders of the President of the United States, I have the honor to state, for your information, that by such authority invested in me I placed a military command upon the island of San Juan to protect the American citizens residing on that island from the insults and indignities which the British authorities of Vancouver's Island and the establishment of the Hudson's Bay Company recently offered them, by sending a British ship-of-war from Vancouver's Island to convey the chief factor of the Hudson's Bay Company to San Juan, for the purpose of seizing an American citizen and forcibly transporting him to Vancouver's Island, to be tried by British laws.

I have reported this attempted outrage to my government, and they will doubtless seek the proper redress from the British government. In the mean time, I have the honor to inform Your Excellency I shall not permit a repetition of that insult, and shall retain a command on San Juan Island to protect its citizens, in the name of the United States, until I receive further orders from my government.

I have the honor to be, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General United States Army, Commanding.*

His Excellency JAMES DOUGLAS, C. B.,

*Governor of Vancouver's Island, &c., Vice-Admiral of the same.*

8 e.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 6, 1859.*

CAPTAIN : The General Commanding instructs me to inform you of the receipt of Governor Douglas's protest to the occupation of San Juan Island, and directs me to enclose a communication, which you will request Captain Hornby, of Her Majesty's ship 'Tribune, to transmit to Governor Douglas with all convenient despatch.

The General approves the course you have pursued, and further directs that no joint occupation or any civil jurisdiction will be permitted on San Juan Island by the British authorities under any circumstances.

Lieutenant Colonel Casey is ordered to re-enforce you with his command as soon as possible.

Send Lieutenant Howard to Fort Steilacoom in arrest.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

*Capt. 2nd Dragoons, Acting Asst. Adjt. Gen.*

Captain GEORGE PICKETT,

*9th Infantry, Commanding on San Juan Island,*

*Puget Sound, W. T.*

8 f.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 7, 1859.*

SIR : I have the honor to inclose for your information a copy of a proclamation of Governor Douglas, the executive officer of Her Britannic Majesty's

island of Vancouver, in Puget Sound; also my reply to this proclamation, as far as it affects the rights of American citizens whose interests have been confided to the protection of my command; and I desire further to inform you that at this time I have a company of United States troops in possession of San Juan Island, to prevent any repetition of the insults that have been offered to our citizens by the British authorities of Vancouver's Island. This company I have ordered to be strongly re-enforced, which the British authorities have threatened not to permit, but also to remove the present force from the island. This I *do not* believe they will attempt, but I shall make every effort to meet and frustrate any designs to place such an indignity upon our flag; and as we have no national vessel belonging to our navy in the waters of Puget Sound to observe the three British vessels of war that have been placed in a threatening attitude over the harbor of San Juan Island, I have the honor to request you, as the commander of the United States naval forces on the Pacific, to order to Puget Sound such force as you can render available to assist in the protection of American interests in that quarter, and to enable us to meet successfully any issue that may be attempted to be made out of the present impending difficulties.

This communication is transmitted through Brigadier General Clarke, commanding Department of California, not having the honor of your acquaintance or a knowledge of your station.

I shall forward immediately a copy of this letter to the Secretary of War, for the information of the President.

I am, sir, with high regard, your obedient servant,

W. S. HARNEY,

*Brigadier General U. S. A., Commanding.*

The SENIOR OFFICER of the United States Navy  
*Commanding Squadron on the Pacific Coast.*

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8 g.

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 7, 1859.*

GENERAL: I have the honor to inclose a communication for the senior officer of the navy commanding on the Pacific coast, in which I have requested a force from his command, to be stationed on Puget Sound, to observe the British men-of-war that are assuming a threatening attitude towards a company of infantry I have placed on San Juan Island.

I will thank you, General, to cause this communication to be transmitted to the proper officer of the navy at your earliest opportunity, as speedy action on his part will do much to allay the excitement which is fast spreading among our people at the overbearing conduct of the British authorities.

I enclose for your information copies of Governor Douglas's proclamation, and my reply to the same.

I enclose, also, an important communication for the Adjutant General, which should reach him as early as possible; perhaps an express line would be more certain and speedy than the mail.

I am, General, with high respect, your obedient servant,

W. S. HARNEY,

*Brigadier General, Commanding.*

Brigadier General N. S. OLARKE,  
*Commanding Department of California,  
San Francisco, California.*

9. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 8, 1859.*

COLONEL: In connection with my report of yesterday's date, I desire to state that the island of San Juan has for months past been under the civil jurisdiction of Whatcom County, Washington Territory—a justice of the peace had been established on the island—the people had been taxed by the county, and the taxes were paid by the foreigners as well as Americans. An inspector of customs, a United States officer of the Treasury Department, had been placed upon the island in the discharge of his proper duties. The British authorities at Vancouver's Island were aware of all of these facts, and never attempted to exercise any authority on the island, except clandestinely, as reported yesterday in the case of the pig which was killed.

When Governor Douglas heard of the arrival of Captain Pickett's command at San Juan, he appointed a justice of the peace and other civil authorities at Victoria, and sent them over in the British ship-of-war *Plumper* to execute British laws in the island. Captain Pickett refused to permit them to act as such, and I have sustained him in his position. I believe I have now fully and fairly explained all the facts which have any bearing upon the occupation of San Juan Island, which was made an imperious necessity by the wanton and insulting conduct of the British authorities of Vancouver's Island towards our citizens.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General, Commanding.*

Colonel S. COOPER,

*Adjutant General United States Army, Washington City, D. C.*

10. *Mr. Drinkard to General Scott.*WAR DEPARTMENT, *September 16, 1859.*

SIR: The President has been much gratified at the alacrity with which you have responded to his wish that you would proceed to Washington Territory to assume the immediate command, if necessary, of the United States forces on the Pacific coast.

He has directed me to call your special attention to the present threatening attitude of the British and American authorities at and near the island of San Juan. The two governments have differed on the question of title to this island under the treaty concluded between them at Washington on the 15th June, 1846. The decision of this question depends on whether the treaty line, in passing "from the middle of the channel, on the 49th parallel of latitude, which separates the continent from Vancouver's Island to Fuca Straits," ought to be run through the Canal de Haro or the Rosario Strait. If through the Canal de Haro, the island belongs to the United States; but if through the Rosario Strait, to Great Britain.

This is not the proper occasion to discuss the question of title. If it were, it might be shown that all the territory which the American government consented to yield, south of the 49th parallel of latitude, was the cape of Vancouver's Island. The idea that the treaty intended to give Great Britain not only the whole of that large and important island, but all the islands south of 49° in the archipelago between the island and the continent, was not, at the time, entertained either by the President or Senate of the United States.

In order to prevent unfortunate collisions on that remote frontier, pending the dispute, Mr. Marcy, the late Secretary of State, on the 14th of July, 1855, addressed a letter to the honorable Isaac I. Stevens, then governor of Washington Territory, having a special reference to an "apprehended conflict between our citizens and the British subjects on the island of San Juan." In this letter Governor Stevens is instructed "that the officers of the Territory should abstain from all acts on the disputed grounds which are calculated to provoke any conflict, so far as it can be done without implying the concession to the authorities of Great Britain of an exclusive right over the premises. The title ought to be settled before either party should attempt to exclude the other by force, or exercise complete and exclusive sovereign rights within the fairly disputed limits." Three days thereafter, on the 17th July, 1855, Secretary Marcy addressed a note to Mr. Crampton, then the British minister at Washington, communicating to him the material portion of his letter to Governor Stevens. Copies of both these letters are herewith enclosed.

Thus matters stood until General Harney deemed it proper, for the purpose of affording protection to American citizens on the island and the neighboring territories of the United States, to direct Captain George E. Pickett, 9th Infantry, "to establish his company on Bellevue, or San Juan Island, in some suitable position near the harbor at the southeastern extremity." At the same time the steamer Massachusetts was placed under the orders of Lieutenant Colonel Silas Casey, 9th infantry, "for the better protection and supervision of the waters of Puget Sound," with instructions to co-operate with Captain Pickett. These instructions were promptly executed. Captain Pickett immediately proceeded to the island with his company and established a military post at its southeastern extremity.

It is unnecessary for me to compile for you, from the papers in the Department, a statement of the condition of affairs in and near the island of San Juan, because you will be furnished with copies of all these papers. I would refer you especially to the two despatches of General Harney, dated July 19 and August 7; and to my despatch to him of the 3d instant, in reply to his of the 19th July. Suffice it to say that they present a condition of affairs demanding the serious attention of this government.

It is impossible, at this distance from the scene, and in ignorance of what may have already transpired on the spot, to give you positive instructions as to your course of action. Much, very much, must be left to your own discretion, and the President is happy to believe that discretion could not be intrusted to more competent hands. His main object is to preserve the peace and prevent collision between the British and American authorities on the island until the question of title can be adjusted by the two governments. Following out the spirit of Mr. Marcy's instructions to Governor Stevens, it would be desirable to provide, during the intervening period, for a joint occupation of the island, under such guards as will secure its tranquillity without interfering with our rights. The President perceives no objection to the plan proposed by Captain Hornby, of Her Majesty's ship *Tribune*, to Captain Pickett; it being understood that Captain Pickett's company shall remain on the island to resist, if need be, the incursions of northern Indians on our frontier settlements, and to afford protection to American citizens resident thereon. In any arrangement which may be made for joint occupation, American citizens must be placed on a footing equally favorable with that of British subjects.

But what shall be your course should the forces of the two governments have come into collision before your arrival? This would vastly complicate the case, especially if blood shall have been shed. In that event, it would still be your duty, if this can, in your opinion, be honorably done, under the surrounding circumstances, to establish a temporary joint occupation of the island, giving to

neither party any advantage over the other. It would be a shocking event if the two nations should be precipitated into a war respecting the possession of a small island, and that only for the brief period during which the two governments may be peacefully employed in settling the question to which of them the island belongs.

It is a possible, but not a probable, case that the British authorities, having a greatly superior force at their immediate command, may have attempted to seize the island and to exercise exclusive jurisdiction over it, and that our countrymen in those regions may have taken up arms to assert and maintain their rights. In that event the President feels a just confidence, from the whole tenor of your past life, that you will not suffer the national honor to be tarnished. If we must be forced into a war by the violence of the British authorities, which is not anticipated, we shall abide the issue as best we may without apprehension as to the result.

I am, sir, very respectfully, your obedient servant,

W. R. DRINKARD,

*Acting Secretary of War.*

Lieutenant General WINFIELD SCOTT,

*Commander-in-Chief of the United States Army, Washington.*

#### 11. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 18, 1859.*

SIR: Since my report of the 8th instant to the Adjutant General, a copy of which was sent to your office, with accompanying papers, I have received the inclosed correspondence from Lieutenant Colonel Casey, commanding on San Juan Island, as a record of the events which have occurred at that place; in addition to which I have the honor to report, for the information of the General-in-chief, my own action, based on the above correspondence, as shown by the inclosed copies to Lieutenant Colonel Casey and Commissioner Campbell, and also a copy of a communication from His Excellency Governor Gholson, of Washington Territory, containing an assurance of a cordial response by the people of this Territory whenever it may be necessary to apply for their assistance.

I inclose a list of the fleet and forces of Her Britannic Majesty on service in Puget Sound, which have been made use of to threaten my command occupying San Juan Island. This armament, it will be seen, contains five vessels of war, one hundred and sixty-seven guns, two thousand one hundred and forty men, some six hundred of which are marines and engineer troops; and when it is known that this force has been employed from the 27th day of July until the 10th day of August, the day on which Colonel Casey, with re-enforcements, reached the island, in using every means in its power, except opening a fire, to intimidate one company of infantry but sixty strong, the conviction will be universal that the cause which this large armament had been called upon to maintain must be totally deficient of right, justice, and integrity.

The senior officer of three British ships-of-war threatened to land an overpowering force upon Captain Pickett, who nobly replied that whether they landed fifty or five thousand men, his conduct would not be affected by it; that he would open his fire, and, if compelled, take to the woods fighting; and so satisfied were the British officers that such would be his course, they hesitated in putting their threat into execution. For the cool judgment, ability, and gallantry which distinguished Captain Pickett in his command on San Juan Island. I most respectfully offer his name to the President of the United States for his notice, by the preferment of a brevet, to date from the commencement of his service on San Juan Island.

On the 14th of August Colonel Casey had five companies with him on the island, and was busy placing in position eight thirty-two pounders, taken from the steamer *Massachusetts* by my orders. By this time four companies more have joined him, making in all nine companies—say five hundred men. These with the citizens on the island, can now defend it until a diversion could be made in their favor. From the height of the island above the water it presents many advantages for shelter from the fire of a fleet, and no force could be landed to dislodge Colonel Casey after his guns are in position and his intrenchments are completed. A detachment of engineer troops will proceed by the mail steamer in a day or two for service with Colonel Casey's command.

The visit of Colonel Casey to Esquimaux harbor to see the British Admiral, was not anticipated by me, and was a generous act of zeal on the part of the Colonel, tending, however, to produce confusion in the minds of the British authorities. I have directed that in future all official communications be referred direct to headquarters.

Some Indian disturbances occurred at Whatcom, on the Sound, about the 7th instant, in which one man was killed. The steamer *Massachusetts* proceeded immediately to the spot and arrested the ringleaders. Four Indians were killed in the melee at Whatcom, and the remaining offenders have been turned over to the civil authority.

This prompt action has restored quiet to the country around Whatcom.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,  
*Brigadier General Commanding.*

ASSISTANT ADJUTANT GENERAL,  
*Headquarters of the Army, New York.*

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11 a.

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 8, 1859.*

COLONEL: The General Commanding instructs you to take such supplies from Bellingham and Townsend, for your command on San Juan, as it may require, and any deficiencies make up from Steilacoom.

You are authorized to strengthen your position on San Juan by four companies of the third artillery now en route to Steilacoom, should you conceive the necessity demands it.

It is not the General's intention to reoccupy either Bellingham or Townsend; consequently, as soon as you can conveniently do so, have all the public property from those posts transferred to San Juan and Steilacoom, according to the wants of the service.

The application for Mr. Goldsborough's services as clerk on the steamer *Massachusetts* to the officer in charge of the public property, has been favorably indorsed and transmitted to the Adjutant General for the approval of the Secretary of War, under General Orders No. 13, from the War Department of this year.

Mr. Goldsborough can be retained in the service until the application is acknowledged.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,  
*Captain 2d Dragoons, Acting Asst. Adjt. Gen.*

Lieutenant Colonel S. CASEY,  
*9th Infantry, Commanding United States Troops,  
San Juan Island, W. T.*



11 b.

CAMP PICKETT,  
*San Juan Island, W. T., August 12, 1859.*

CAPTAIN: I have the honor to report that, in obedience to orders received from Department headquarters, I left Fort Steilacoom on the steamer Julia, on the 9th instant, (the morning after the receipt of the order,) with my command. In a short time after leaving we were met by the steamer Active, on her way to Fort Steilacoom, for the purpose of communicating to me the state of affairs on the island. I was strongly and solemnly advised by Captain Alden, in view of the momentous consequences that might arise, not to land any troops on the island, as this would be prevented by the British steamship-of-war Tribune, who, with her fires constantly kept up, was lying with her broadside on the landing.

Although fully appreciating the terrible consequences of a hostile collision with our quasi enemy, which would probably be no less than involving two great nations in war, I did not, under the circumstances, however, consider myself at liberty to disregard my orders, and accordingly resolved to land under the guns of the frigate. The commencing hostilities should be on their side. We left Port Townsend about 12 o'clock the night of the 9th, expecting to reach San Juan early on the morning of the 10th. The fog, however, came up so dense that we did not make the island of San Juan until about 7 o'clock the morning of the 10th.

After hugging the shore for a few miles, I was informed by the captain that we were but a short distance from Captain Pickett's camp, and that it was difficult to get along on account of the fog, and that, moreover, the tide was so low that he would not have been able to have gotten up to the wharf at the landing for several hours.

Finding ourselves a smooth place near the land, with the coast so depressed at the point as to make the ascent from the shore easy, I landed the troops and howitzers, with orders to the senior officer to move them to Captain Pickett's camp. I proceeded on the steamer around to the wharf, taking with me my adjutant and a small guard for the howitzer ammunition and other public property.

I found the Tribune lying as has been described. They did not interfere with the landing of our freight. Whether they would have interfered with the landing of the troops I cannot say. It is Captain Pickett's opinion that they would.

Before I had landed from the steamer I received a message from Captain Pickett, by one of his officers, requesting my presence at once in camp. The captain pointed out to me a British war steamer, ascertained afterwards to be the Satellite, which he was under the impression was about taking a position to shell the camp. The camp is situated on a narrow neck of land opposite to the harbor, and distant about two-thirds of a mile. The Tribune, lying in the harbor, has on board several hundred men, composed of marines, royal artillery, and sappers and miners. He expected the land attack from the harbor side, and was prepared to fire upon them with his howitzers and then spike them, deliver his fire with his musketry, and retreat to the woods. Not having time to form any well considered plan of my own with regard to the state of affairs, I did not countermand the directions that Captain Pickett had given.

Seeing the danger of a collision at any moment, which would inevitably lead to war between two mighty nations connected by so many common bonds, and whichever way it might terminate would be eminently disastrous to the cause of civilization and the interests of humanity, I resolved to make an attempt to prevent so great a calamity. I sent an officer aboard the Tribune with a request

that Captain Hornby, the commander, would call on me at my camp for the purpose of a conference.

The message returned to me by Captain Hornby was that he was much engaged at that time, and would come if he could conveniently, but would be happy to see me on board his vessel. However, in a few hours the captain came, accompanied by Captain Prevost, the British, and Mr. Campbell, the United States commissioner.

I informed Captain Hornby that I had landed that morning with a force of United States troops, and explained to him the reason why I had not landed at the wharf, under the guns of the frigate. I also said to him that I regretted that Captain Pickett had been so much harassed and threatened in the position he had occupied.

I inquired of Captain Hornby who the officer highest in command was, and where he was to be found. He said it was Admiral Baynes, and that he was then on board the flag-ship *Ganges*, in Esquimault harbor. I intimated a wish to have a conference with the Admiral, and that I would go down to Esquimault the next day for the purpose of the interview. Both the captain and the British commissioner seemed pleased. The next day, accompanied by Captain Pickett (both of us in full uniform) and Mr. Campbell, I went down to Esquimault on the steamer *Shubrick*. We anchored near the *Ganges*, and I sent to the Admiral, by an officer, the note marked A. I received in reply the note marked B. The note marked C was taken on board by Captain Pickett and handed to the Admiral in person. The Captain was courteously received by the Admiral. Governor Douglas was present in the cabin. After reading the note the Admiral handed it to the Governor. The Governor inquired if I knew he was on board the ship. The Captain replied that he had no reason to suppose I did, but that I had not sought an interview with him, but with the Admiral. The Captain informed the Admiral that the steamer was then firing up, but that I would be happy to wait should he then decide to give me the conference. It was declined, but the Admiral reiterated his desire that he would be happy to see me on board the ship. I was of the opinion that I had carried etiquette far enough in going twenty-five miles to see a gentleman who was disinclined to come one hundred yards to see me.

The proposition which I intended to have made the Admiral was this: to calm the rising excitement on both sides among the people, and to give time for the intentions of the home government to be made known in regard to the matter. I intended to propose that in case he, the Admiral, would pass his word on honor that no threats should be made or molestation given by the force under his command for the purpose of preventing Captain Pickett from carrying out the orders and instructions with which he is intrusted, I would recommend to the Commanding General the withdrawal of the re-inforcement which had landed on the island under my command, and that affairs should so remain until the sovereign authorities should announce their intentions. I have so far had no further intercourse with any of the officers of the fleet. Lieutenant Kellogg, 3d artillery, being at Fort Steilacoom on the reception of your order, I directed him to accompany me in charge of the artillery. I trust that, under the circumstances, the General Commanding will approve my course in the matter.

The *Massachusetts* arrived to-day, with Major Haller's command on board. Inasmuch as most of the subsistence stores here are spoiled, having been damaged on board the *Massachusetts* before she landed them at Bellingham Bay, and the articles of the quartermaster's department being required, I shall direct the *Massachusetts* to proceed, as soon as the guns can be landed, to Fort Townsend, and take from there all the public property, leaving a sergeant and two or three privates to take care of the buildings and garden.

I inclose a list of the ships and men which the British have in this vicinity. I would advise that the General send an officer express to San Francisco, re-

questing the Naval captain in command to send up any ships of war he may have on the coast. It is not pleasant to be at the mercy of any one who is liable at any moment to become your open enemy. The British have a sufficient naval force here to effectually blockade this island when they choose. I do not know what the intentions of the British naval authorities with respect to this island are. I shall resist any attack they may make upon my position. I request that five full companies of regular troops, with an officer of engineers and a detachment of sappers, be sent here as soon as possible. Let Lieutenant Kellogg's be one of the companies. I have enclosed copies of communications from Major Haller with regard to his operations with the Indians. I think the Major exercised a commendable enterprise in his operations, and that there will be no further difficulty.

Very respectfully, your obedient servant,

SILAS CASEY,  
*Lieutenant Colonel 9th Infantry.*

Captain ALFRED PLEASANTON,  
*Acting Assistant Adjutant General, Fort Vancouver, W. T.*

[Inclosures.]

1. Colonel Casey to Admiral Baynes, August 11.
2. Admiral Baynes to Colonel Casey, August 11.
3. Colonel Casey to Admiral Baynes, August 11.
4. Statement of British forces at San Juan.

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11 b 1.—A.

UNITED STATES STEAMER SHUBRICK,  
*Esquimaux Harbor, W. T., August 11, 1859.*

Lieutenant Colonel Casey, United States Army, commanding the forces on San Juan Island, presents his compliments to Admiral Baynes, commanding Her Britannic Majesty's naval forces on the Pacific coast, and would be happy to meet the Admiral in conference on board the United States steamer Shubrick, in the harbor, at his earliest convenience.

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11 b 2.—B.

"GANGES,"  
*Esquimaux, W. T., August 11, 1859.*

Rear-Admiral Baynes presents his compliments to Lieutenant Colonel Casey, and regrets that circumstances prevent him doing himself the honor of meeting Lieutenant Colonel Casey on board the Shubrick. But Rear-Admiral Baynes will have great pleasure in receiving Lieutenant Colonel Casey, or any one who may wish to accompany him on board the Ganges.

Lieutenant Colonel CASEY,  
*United States Army.*

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11 b 3.—C.

UNITED STATES STEAMER SHUBRICK,  
*Esquimaux Harbor, W. T.*

Lieutenant Colonel Casey regrets that circumstances prevent Rear-Admiral Baynes from accepting his invitation to meet him on board the Shubrick according to his request.

11 b 4.

*Her Britannic Majesty's Fleet at Vancouver's Island and in its vicinity, Rear-Admiral Baynes Commanding.*

Name of vessel.	No. of guns.	Men.	Name of captains.
Flag-ship Ganges.....	84	840	Slavel.
Tribune .....	31	325	Geoffrey Phipps Hornby.
Pylades.....	21	325	De Courcey.
Satellite .. ...	21	325	James Prevost.
Plumper .....	10	125	Richards.
	167	1,940	

The Tribune, now at anchor in the harbor of San Juan, has, in addition to her own crew, a detachment of sappers and miners and marines brought down from Frazer's River on the 30th July by the steamer Plumper, numbering 200 ; total, 2,140.

The relative calibre of the Ganges's guns unknown ; she is one of the old-fashioned line-of-battle ships, thirty-five years old. Tribune has twenty-two 32-pounders, nine 68-pounders, one of them a pivot-gun. Pylades and Satellite are 68-pounders, twenty broadside, one pivot ; they are the new class of corvettes of which the English are building a great number.

Plumper is a surveying vessel ; the armament is comparatively light ; the guns are all 32-pounders.

On board the fleet there are above five hundred troops, one hundred of that number being sappers and miners, the rest marines.

11 c.

HEADQUARTERS CAMP PICKET.  
*San Juan Island, W. T., August 14, 1859.*

CAPTAIN : I have the honor to acknowledge the receipt of your two communications dated the 8th of August, and also Special Orders No. 82. Since my last, nothing of moment has transpired. The Tribune and Satellite are now in the harbor, with their broadsides on the landing. I have not been informed what the intentions of the British force in these waters are, but am of the opinion, however, that they have concluded to wait for further instructions from higher authority before any violence is attempted. However, it is a wise maxim " to be prepared for the worst, while hoping for the best." I shall accordingly direct the four companies of artillery at Steilacoom to join me at once. In a former communication I asked for five companies and an engineer officer, with a detachment of sappers. I would like to have them sent around on board the United States steamer Active, which Captain Alden has kindly placed at my disposal for carrying this despatch. The service of the engineer officer and the detachment of sappers would most probably be required but a short time. We are encamped in rather an exposed situation with regard to the wind, being at the entrance to the Straits of Fuca. The weather, at times, is already quite inclement. To maintain the object of our occupation I do not, however, from my present information, think it advisable to change my position. I have enclosed a requisition for " Sibley " tents, with stoves and quartermaster's stores, which I would like to be forwarded by the Active on her return. I have also enclosed

a requisition for subsistence stores, which should be sent to Fort Steilacoom as soon as they can be supplied from San Francisco. In view of the possible contingencies of the service, it was my intention to draw from Steilacoom, as a depot, supplies as they would be needed. The Massachusetts landed her guns and ammunition yesterday. I have directed that she leave to-day for Port Townsend and bring all the supplies from the port to this point, leaving there a sergeant and two men to take care of the public buildings and garden. I shall place the 32-pounders in position as soon as possible. With our present appliances I find them rather difficult to manage.

Very respectfully, your obedient servant,

SILAS CASEY,  
*Lieutenant Colonel 9th Infantry,*  
*Commanding Troops on San Juan Island.*

Capt. ALFRED PLEASANTON,  
*A. A. Adj't General, Headquarters Dep't of Oregon,*  
*Fort Vancouver, W. T.*

11 d.

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 16, 1859.*

COLONEL: The General Commanding has received your reports of the 12th and 14th instant, and accompanying papers, and instructs me to reply as follows:

The supplies and stores required for the command at San Juan Island will be forwarded as soon as practicable; the camp and garrison equipage will be shipped on the Active.

The course pursued by you in ordering the four companies from Steilacoom to San Juan Island is approved.

A detachment of engineers will be sent you by the mail steamer; in the mean time have platforms made for your heavy guns, and cover your camp as much as possible by intrenchment, placing your heavy guns in battery on the most exposed approaches; the howitzers to be used to the best advantage with the troops, or in the camp, according to circumstances.

Select your position with the greatest care to avoid the fire from the British ships. In such a position your command should be able to defend itself against any force the British may land. The General has requested a naval force from the senior officer on the coast, and has notified General Clarke, as well as the authorities at Washington, of the existing state of affairs on the Sound. Troops and supplies will be sent to you as fast as they can be collected.

The General regrets, under all the circumstances, your visit to Esquimaux harbor to see the British Admiral, but is satisfied of your generous intention towards them. He instructs you for the future to refer all official communication desired by the British authorities to these headquarters, informing them at the same time that such are your orders. It is almost needless to inform you that the subjects of Great Britain on San Juan Island will be treated with the same consideration and respect that is shown to our own citizens.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,  
*Capt. 2nd Dragoons, A. A. Adj. Gen'l.*

Lieut. Col. S. CASEY, *9th Infantry,*  
*Comd'g U. S. Troops, San Juan Island, Puget Sound.*

11 e.

EXECUTIVE OFFICE, OLYMPIA, W. T.,

August 11, 1859.

SIR: By yesterday's mail I had the honor of receiving your favor of the 7th instant, inclosing copies of your "orders to Colonel Casey," "the proclamation of Governor Douglas, and your reply to the same."

Among other things you have been pleased to inform me that you have authorized Colonel Casey to call for volunteers, and that you "feel assured of my cordial co-operation whenever an emergency may demand it."

Reciprocating the frankness of your communication, I have to reply that, should the contemplated emergency arise, your just expectations of the course to be pursued by myself shall *not* be disappointed, and that in such an event I have an abiding faith that the citizens of this Territory will with enthusiastic alacrity respond to any call necessary for the defence of individual rights, the rights of their country, or their country's honor.

I am, General, most respectfully, your obedient servant,

R. D. GHOLSON,

Governor Washington Territory.

Brigadier General W. S. HARNBY,

Headquarters Department of Oregon, Fort Vancouver, W. T.

11 f.

HEADQUARTERS DEPARTMENT OF OREGON,

Fort Vancouver, W. T., August 16, 1859.

MY DEAR SIR: Your communication of the 14th instant has just been received, and I hasten to place you in possession of the facts connected with the occupation of San Juan Island by some of the troops of my command. This step would have been taken before, but I was informed you were *en route* to Washington.

I enclose for your information a copy of a protest issued by Governor Douglas, Commander-in-chief of the island of Vancouver, to the occupation of San Juan Island, and claiming the sovereignty of said island for the Crown of Great Britain; also a copy of my letter to Governor Douglas in reply to his protest.

You will perceive that in my reply to Governor Douglas I charge the British authorities of Vancouver's Island with having violated the rights of American citizens on the island of San Juan in such a manner and by such means as to leave me no other alternative than to occupy the island for the protection of American interests. In assuming this responsibility I was careful to state distinctly and fully to Governor Douglas the position of my troops on the island of San Juan, and I reiterate to you that the relative claims of the two countries has had nothing to do in the assignment of the troops in question. The British authorities chose to violate treaty stipulations made in good faith and maintained by the United States in good faith—by attempting to arrest an American citizen on San Juan Island to carry him to Victoria to be tried by British laws. To prevent a repetition of this outrage, until the government of the United States could be apprised of it, I have placed troops on the island with such orders as I have deemed necessary to effect this object.

With the question of boundary between the United States and Great Britain I disclaim having done anything with respect to it in occupying San Juan Island. Great Britain has no sovereignty over American citizens on San Juan Island, and every attempt made by her authorities to advance such claims I shall resist,



until further orders from the President, to whom I have submitted the whole matter ; in the mean time I hope the labors of your joint commission will be prosecuted amicably and successfully, for I can assure you that no one is more desirous of facilitating your labors than myself.

I am, sir, with high respect, your obedient servant,

W. S. HARNEY,  
*Brigadier General Commanding.*

ARCHIBALD CAMPBELL, Esq.,  
*United States Commissioner Northwest Boundary,  
Harbor San Juan Island, Puget's Sound.*

12. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 25, 1859.*

COLONEL : I have the honor to inclose a copy of a despatch from His Excellency Governor Douglas, of Her Britannic Majesty's island of Vancouver ; also a copy of my reply to the same ; both of which papers I request may be submitted for the information of the President of the United States, at your earliest convenience.

Governor Douglas denies that the British authorities of Vancouver's Island were cognizant of the outrage attempted upon an American citizen on San Juan Island, as reported in my communication to the Headquarters of the Army, of July 19, and my letter to you of the 7th instant. This denial, couched as it is in strong language, does not explain how a British ship-of-war did convey Mr. Dallas, the chief factor of the Hudson's Bay Company, and son-in-law of Governor Douglas, to San Juan Island ; that Mr. Dallas landed and threatened an American citizen by the name of Cutler with imprisonment at Victoria, to which place he would be taken in the ship-of-war waiting for him. This threat was not put into execution for the reason that Cutler told Mr. Dallas if it was attempted he would kill Mr. Dallas on the spot. But Mr. Dallas having left the island in the ship-of-war, the conclusion is irresistible that Mr. Dallas either had the ship-of-war under his control by some direct authority from the British authorities, or he was acting independent of that authority in the exercise of powers delegated to him elsewhere.

If Mr. Dallas can use a British ship-of-war to overlook the interests of the Hudson's Bay Company on this coast, without the authority of Governor Douglas or the British Admiral, which is just what he has done, according to the facts and Governor Douglas's despatch, then the interests and rights of our citizens have been in greater jeopardy than I have heretofore supposed, and the necessity of retaining the occupation of San Juan Island is still more imperative.

Governor Douglas has opposed the occupation of San Juan on the ground of sovereignty, and lays great stress upon Mr. Marcy's despatch of July 17, 1855, to Her Majesty's minister at Washington.

In a communication to Commissioner Campbell, of the Northwest Boundary Survey, I have disclaimed any intention of asserting any sovereignty over the island of San Juan, beyond that which the necessity of the case has demanded. A copy of this communication has already been sent to you.

Mr. Marcy's instructions in reference to the conduct of officers of the two governments never contemplated the case of a direct aggression on the rights of our people, backed by so powerful a naval force as to create strong surmises of

its intentions. Indeed, so extraordinary has been the course of conduct of the British in reference to San Juan, and so evident has been their design to force our people from the island, that I should consider I had been recreant to the high trust imposed on me, in not taking possession of the island, it being the only position from which we could defend our rights to advantage.

Eight companies are now on the island, with eight 32-pounders landed from the steamer *Massachusetts*. A detachment of engineer troops are engaged with the troops in constructing a field-work to defend their position, at the same time protect them from any fire from the water. This command is fully supplied for over two months, and is considered now to be able to hold its own in the event of any difficulty until re-inforcements could arrive.

I inclose a copy of Governor Douglas's message to the Legislature of Vancouver's Island; also of "The British Colonist," the government paper published at Victoria, giving an account of the proceedings of the assembly in relation to San Juan; also an editorial, complaining that an error had been committed by somebody on their side. Our quick-witted people were aware of that fact nearly two months ago.

I am, Colonel, very respectfully, your obedient servant,

WM S. HARNEY,

*Brigadier General Commanding.*

Colonel S. COOPER,

*Adjutant General U. S. Army, Washington City, D. C.*

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12 a.

GOVERNMENT HOUSE,

*Victoria, Vancouver's Island, August 13, 1859.*

SIR: On the evening of the 10th instant I had the honor of receiving your despatch, dated Fort Vancouver, August 6, 1859.

2. In reply thereto, I must thank you for the frank and straight-forward manner in which you communicate to me your reasons for occupying the island of San Juan, on the Haro Archipelego, with a portion of the military forces of the United States under your command.

3. I am glad to find that you have done so under your general instructions from the President of the United States as Military commander of the Department of Oregon, and not by direct authority from the Cabinet at Washington.

4. You state that the reasons which induced you to take that course are the "insults and indignities which the British authorities of Vancouver's Island and the establishment of the Hudson's Bay Company have recently offered to American citizens residing on the island of San Juan, by sending a British ship-of-war from Vancouver's Island to convey the chief factor of the Hudson's Bay Company to San Juan, for the purpose of seizing an American citizen and forcibly transporting him to Vancouver's Island to be tried by British laws."

5. I will explain for your information that the agents of the Hudson's Bay Company hold no official position in Vancouver's Island, nor exercise any official power or authority, and are as entirely distinct from the officers of the executive government as are any of the other inhabitants of Vancouver's Island.

6. To the reported outrage on an American citizen, I beg to give the most unhesitating and unqualified denial.

None of Her Majesty's ships have ever been sent to convey the chief factor or any officer of the Hudson's Bay Company to San Juan for the purpose of

seizing an American citizen, nor has any attempt ever been made to seize an American citizen and to transport him forcibly to Vancouver's Island for trial, as represented by you.

7. Up to a very recent period, but one American citizen has been resident on San Juan. About the commencement of the present year a few American citizens began to "squat" upon the island, and upon one occasion a complaint was made to me by a British subject of some wrong committed against his property by an American citizen; but no attention was paid to that complaint, out of consideration and respect to the friendly government to which the alleged offender belonged, and whose citizens, I think, it cannot be denied, have always been treated with marked attention by all the British authorities in these parts.

With reference to San Juan, in particular, I have always acted with the utmost caution, to prevent, so far as might lie in my power, any ill feeling arising from collisions between British subjects and American citizens, and have in that respect cordially endeavored to carry out the views of the United States government as expressed in a despatch from Mr. Marcy, dated 17th July, 1855, to Her Majesty's minister at Washington, a copy of which I herewith enclose for your information, as I presume that the document cannot be in your possession.

8. Following the dignified policy recommended by that despatch, I should, in any well-grounded case of complaint against an American citizen, have referred the matter to the federal authorities in Washington Territory, well assured that if wrong had been committed reparation would have followed.

9. I deeply regret that you did not communicate with me for information upon the subject of the alleged grievance; you would then have learned how unfounded was the complaint, and the grave action you have adopted might have been avoided. I also deeply regret that you did not mention the matter verbally to me when I had the pleasure of seeing you at Victoria last month; for a few words from me would, I am sure, have removed from your mind any erroneous impressions, and you would have ascertained personally from me how anxious I have ever been to co-operate to the utmost of my power with the officers of the United States government in any measures which might be mutually beneficial to the citizens of the two countries.

10. Having given you a distinct and emphatic denial of the circumstances which you allege induced you to occupy the island of San Juan with United States troops; having shown you that the reasons you assign do not exist, and having endeavored to assure you of my readiness on all occasions to act for the protection of American citizens and for the promotion of their welfare, I must call upon you, sir, if not as a matter of right, at least as a matter of justice and of humanity, to withdraw the troops now quartered upon the island of San Juan, for those troops are not required for the protection of American citizens against British authorities, and the continuance of those troops upon an island the sovereignty of which is in dispute, not only is a marked discourtesy to a friendly government, but complicates to an undue degree the settlement in an amicable manner of the question of sovereignty, and is also calculated to provoke a collision between the military forces of two friendly nations in a distant part of the world.

I have the honor to be, sir, your most obedient servant,

JAMES DOUGLAS.

Brigadier General W. S. HARNEY,

*Commanding the Troops in the Department of Oregon.*

12 b.

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 24, 1859.*

SIR : I have the honor to acknowledge the receipt of your communication of the 13th instant, which came to me by mail this morning. The copy of Mr. Marey's despatch of the 17th July, 1855, to Her Majesty's minister at Washington, stated to be in your communication enclosed, was not received. This, I presume, was an accidental omission in the transmission of your letter.

It was with pleasure I received from your excellency a prompt disavowal of any intention on the part of the British authorities of Vancouver's Island to commit any aggression upon the rights of American citizens residing on San Juan Island, and I desire to communicate to you that I shall forward this despatch by the first opportunity to the President of the United States, to enable him to consider it in connection with all the facts duly reported to him attending the occupation of San Juan Island by a portion of the troops under my command.

Your excellency has been pleased to express how anxious you have ever been to co-operate with the officers of the United States government in any measures which might be mutually beneficial to the citizens of the two countries, and your regret is signified that communication with you on the subject of the occupation of San Juan Island had not been sought during my late agreeable visit to your excellency at Victoria.

I beg to offer in reply that I have cordially reciprocated the sentiments of friendship and good will you have manifested towards American interests from the period of my service with this command. In that time I have, on two different occasions, notified the government of the United States of your acts affecting our citizens in terms of commendation and praise, as assurances of a proper appreciation of the confidence reposed by my government in that of Her Majesty. On my late visit to Victoria I was without knowledge that any occurrence had taken place on San Juan Island to outrage the feelings of its inhabitants, else I should then have informed your excellency what I conceived it became incumbent for me to do under such circumstances.

The explanation your excellency has advanced, while it serves to remove the impression at first created of a direct action on the part of the British authorities of Vancouver's Island in the recent occurrences on San Juan Island against the rights of our citizens, does not expose any evidence of a preventive nature to a repetition of the acts, which have caused so serious a misunderstanding in the minds of the American people on San Juan Island ; nor has the course which events have taken since the occupation of the island by the troops of my command been of such character as to reassure these people, could the contents of your despatch be announced to them.

From what has taken place, I do not feel myself qualified to withdraw the present command from San Juan Island until the pleasure of the President of the United States has been made known on the subject ; I can, however, frankly assure your excellency that the same motives which have induced me to listen to the appeals of my own countrymen will be exerted in causing the rights of Her Majesty's subjects on San Juan to be held inviolate.

I have the honor to be, very respectfully, your obedient servant,  
 W. S. HARNEY,

*Brigadier General United States Army, Commanding.*

His Excellency JAMES DOUGLAS, C. B.,

*Governor of Vancouver's Island and its Dependencies,*

*Vice-Admiral of the same, &c.*

12 c.

GOVERNMENT HOUSE,

Victoria, August 3, 1859.

*To the Legislative Council and House of Assembly of the Colony of Vancouver's Island:*

GENTLEMEN: I have to communicate for your information the intelligence of the landing of a detachment of United States troops on the island of San Juan, avowedly (see enclosed Nos. 1 and 2) for the purpose of forming a military post, and of asserting the sovereignty of the United States to that island. Having received no information from any quarter that the United States ever contemplated taking military possession of any part of the disputed territory while the boundary line remained unsettled, I am forced to believe that the late unwarrantable and discourteous act, so contrary to the usages of civilized nations, has originated in error, and been undertaken without the authority of that government. That impression is corroborated by a letter (a copy of which is here enclosed) from the Honorable W. L. Marcy, Secretary of the United States, dated Washington, July 12, 1855, to Her Majesty's minister at Washington, which contains instructions from the President of the United States to the governor of Washington Territory, and displays, in the clearest manner, the conciliatory and moderate views entertained by his government on the subject of the disputed territory.

Though the right of Great Britain to all the islands situated to the westward of "Vancouver" or "Rosario" Straits is, to our minds, clearly established by the first article of the treaty of 1846, and though those islands have, since the foundation of this colony, been considered as a dependency of Vancouver's Island, it is well known to you, gentlemen, that out of respect to the construction that has been put upon that treaty by the government of the United States we have abstained from exercising exclusive sovereignty over them. Convinced that any assumption, on either side, of exclusive right to the disputed territory would simply be a fruitless and mischievous waste of energy, neither detracting from, nor adding force to the claims of either nation, wise and considerate policy enjoins upon us the part of leaving so important a national question for settlement by the proper authorities, and of avoiding complications foreign to the views and wishes of, and probably embarrassing to both governments. Immediately on being informed of the landing of the United States troops at San Juan, Her Majesty's ship *Tribune*, under the command of Captain Hornby, was despatched to that quarter, and soon after a detachment of royal engineers and royal marine light infantry were ordered from New Westminster by Her Majesty's ship *Plumper*, Captain Richards, and those troops will be landed at San Juan to protect the lives and property of British subjects. You will observe gentlemen, from enclosure No. 1, that the captain in command of the United States detachment of troops, in a public notice, dated 27th of July, assumes the exercise of exclusive sovereign rights in the island of San Juan, while the President of the United States altogether disclaims such pretensions, and seeks at most to continue the joint right of sovereignty and domain in common with Great Britain. We may presume from that circumstance that the notice in question was framed in ignorance of the intentions of the United States government, and that the pretensions set forth will not be maintained. Entertaining such opinions, I have not failed to impress on Her Majesty's naval officers now stationed at San Juan the desire of Her Majesty's government to avoid every course which may unnecessarily involve the suspension of the amicable relations subsisting between Great Britain and the United States. At the same time, those officers have been instructed, and are prepared to assert the rights and to maintain the honor and dignity of our sovereign and her dominions.

I have the honor to be, gentlemen, your most obedient servant,

JAMES DOUGLAS.



12 d.

[From the "British Colonist," Victoria, August 17, 1859.]

*Reply to Governor's Message about San Juan.*

VICTORIA, V. I.,

*House of Assembly, Friday, August 12, 1859*

Mr. Speaker, learning that neither Mr. Skinner nor Mr. Pemberton intended to insist on their motion as regards San Juan, had prepared a reply to the message. He considered that a great mistake had been made by the government in sending out men to settle the boundary. Common sense and dollars should have been sent. The dollar the Americans worship. If dollars had been used a different interpretation of the treaty might have been made. Why not have made the proceeding a mere mercantile affair and paid the commissioner? Then the island would have been ours and the Americans would have clearly seen the justice of our claim. But a general on his own authority had invaded our territory. His grounds for doing so were based on falsehood and carried out clandestinely. What more could be expected of a man who has spent a lifetime in warring with Indians? But what is to be done? His Excellency sends troops and ships. Why all this expense and show if for parade? Why were not the troops landed? Instead of fighting, Her Majesty's captains take to diplomacy. It shames me to think that the Satellite was running around after Commissioner Campbell. I am ashamed to think that post captains were holding a pow-wow with a subaltern of the American army. They should have landed their troops and avoided all degrading negotiations. But more troops have landed in spite of post captains and admirals. (Here he read some extracts from the Blue Book of British Columbia enjoining the necessity of accustoming the colonists to defend themselves.) Yes, a militia must be raised. We must defend ourselves, for the position we occupy to-day would make the iron monument of Wellington weep, and the stony statue of Nelson bend his brow.

The reply to the message was then read. Mr. Yates agreed with a part of the address, but could not understand why the honorable speaker had said in it that the time to land troops has gone by. My motion is to learn why they were not landed. The time to land them was when there was no danger of blood being shed. Now, perhaps, the case is different.

Mr. Pemberton. I am not sure that the time to land troops has gone by. If it has not, I recommend His Excellency to land them. That portion of the address in relation to militia I would leave out. If we asked the home government for arms for the militia, they would be likely to send us some old muskets from the Tower 150 years old. No allusion has been made to British subjects occupying the island. I think it necessary.

Mr. Speaker. I think there was a council on board the flag-ship. His Excellency was present. Negotiation was the object, perhaps, as American officers had arrived on the Shubrick. I would not hold any negotiations with so dishonorable a man as Campbell. I have not said anything in the address about San Juan as the key to British Columbia. I leave that to His Excellency.

Mr. Yates preferred negotiation to war. I believe the powers that be have been too slow, and put the Governor in a false position. My motion is to learn who is to blame.

Mr. Pemberton believed a few soldiers, if supported by a man-of-war, could land without danger of collision.

Mr. McKay was favorable to landing troops at all hazards.

Mr. Speaker had no doubt the naval officers had said: "N-o-w, Mr. Pick-ett, will you--al-low--us to land?"

Mr. Pemberton thought the colony would be benefited by the difficulty. A



large naval station would be built here, and everything would be removed from Valparaiso.

Mr. Speaker thought the honorable member very patriotic in taking such an interested view of the question. He cared nothing for the paltry local advantages. It is a national question, and in that light alone he looked at it.

Mr. Pemberton proposed the occupation of Lopez Island by British troops.

After some amendments to the address, the following to the governor's message was then adopted:

#### ADDRESS.

The House acknowledges the receipt of your excellency's communication of the 3d instant relating to the clandestine invasion of San Juan Island by United States troops, and the steps to be adopted in relation thereto.

Since that communication it is well known that additional forces have been landed.

The House would therefore inquire why the British forces were not landed to assert our just right to the island in question, and to uphold the honor of our country and our Queen.

The House would most urgently impress upon your excellency to enforce upon Her Majesty's government the necessity of demanding from the government of the United States not only immediate withdrawal of those troops, but also strenuously and at all risks to maintain her right to the island in question, and also to all other islands in the same archipelago, now so clandestinely, dishonorably, and dishonestly invaded.

It is not for our country to be wantonly and insolently insulted, but redress must be demanded.

The weakness of the colony is its greatest danger, and, at the same time, an inducement for the repetition of similar offences by similar persons. Let it, therefore, be urged upon Her Majesty's government that sending out colonists rapidly from Great Britain is the surest way, not only of maintaining peace, but of preserving intact Her Majesty's possessions. Coupled with this, the House would propose that free and liberal grants of land be given to such emigrants after settling thereon for a certain time.

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12 c.

[From the "British Colonist," Victoria, August 17, 1859.]

#### WHY WERE NOT TROOPS LANDED AT SAN JUAN?

On our first page will be found the assembly debate on the Governor's message in relation to landing soldiers on San Juan. From the severe strictures passed on our naval officers by the speaker, who is taken as the exponent of the government, it is evident that a serious difference of opinion as to our policy exists between the naval and civil authorities. It is difficult to imagine how so high an official could use such language except from information derived from official sources; and it is still more difficult to believe, as suggested by the chairman during debate, that the naval authorities had refused to land when they had no discretionary instructions. If they had full instructions to land, the unenviable position of the government, since the publication of the message, is justly chargeable to them. If, on the other hand, they were governed by discretionary instructions, the charges against the commanders of Her Majesty's ships for equivocal conduct is justly reprehensible. No future explanation, however, can explain away the palpable inference which will be drawn from the language used in debate.

An error has been committed by somebody. Either the Administration should have been satisfied with a pacific policy, manifested by serving the United States authorities with a formal protest or an assertion of our sovereignty in the first place, and then have allowed the matter to rest till despatches were received from the imperial government, or it should at once have landed troops on the island, without making such a display of force or asking permission. We confess that we are not disposed to accept peace at any price; for if that were the case, cowardice would be the safest policy. We do, however, concur with the opinion expressed in the message that our forces should have been landed. The Americans took the ground that their citizens required protection, and that they landed troops with that object. Now, in order to protect British subjects on the island, we also should have done the same. Then our position would have been exactly similar to theirs. On this high ground, had bloodshed followed, we could have appealed to the world, with right on our side, certain of a verdict in our favor. As it is, the Americans have been allowed to strengthen their forces with men, munitions of war, and settlers, and actually occupy private property long in the possession of British subjects, whilst we, apparently divided in our councils, have made a grand and useless parade, and done nothing but render ourselves ridiculous. Whoever are the parties, or whatever are the causes why a vigorous and firm policy has not been pursued, it is certain an explanation is due to account for the charges made against the naval forces in our waters.

In the mean time some action ought to be taken by the people to show the deep interest we have in San Juan, and that we are determined to protect our fellow-subjects on the islands. In addition, it is necessary to arouse our sister colonies to the importance of the island to British America, and show to the imperial government the necessity of holding the island to guard the overland transit from Great Britain to her Asiatic dependencies.

It matters not what may or may not have been said by British or American statesmen in relation to the reputed claims to Canal de Haro or Rosario Strait. We are forced to abide by the treaty. If the United States knew all about Canal de Haro at the time of the treaty, and that the line was deflected from the 49th parallel, so as not to divide the sovereignty of this island, then why was it not named as the boundary? On the other hand, had Rosario Strait been thoroughly known and fixed on as the channel by the negotiants, it would have been in the treaty. Finding neither one nor the other there; finding no *ship* channel or *main* channel named in the treaty, but finding four channels leading north from the Straits of Fuca, and that the only channel named in the treaty is that which separates the continent from this island, we see no way for a pacific adjustment, except making Washington Channel, between San Juan and Lopez, the boundary. That we justly claim.

### 13. *General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., August 29, 1859.*

COLONEL: I have the honor to enclose a copy of Mr. Marcy's despatch,\* referred to in Governor Douglas's communication to me of the 13th instant, which was received on the night of the 27th instant, with a note from William A. G. Young, esq., Acting Colonial Secretary, a copy of the same being also enclosed.

My communication of the 24th instant had been sent to Governor Douglas before Mr. Young's note and its enclosure were received. The instructions of

\* See Nos. 1 and 2 of these papers, pp. 144-'5.

this document from Mr. Marcy have no bearing upon the question at issue between the British authorities of Vancouver's Island and myself at this time; and my answer to Governor Douglas of the 24th instant would appear as it is, had this copy of Mr. Marcy's despatch accompanied the Governor's letter of the 13th instant.

The spirit of Mr. Marcy's instructions, when carried out in good faith by the functionaries and citizens of both countries, I not only most heartily approve, but I am satisfied my conduct will stand the most critical and searching investigation in the support of that approval.

From the time of my assuming the command of this Department until the occupation of San Juan Island, I was most careful neither to increase nor change the position of the force on Puget Sound, that there might be no misconceptions of my acts, on the part of the British, of the good faith which animated me in the observance of treaty stipulations. Time and again our light-houses were attacked, and the wives and children of our citizens on that coast were brutally murdered by British Indians. Reports reached me that these Indians had been instigated to these acts by the Hudson's Bay Company, in order to drive them from the lands which this immense establishment covet for their own purposes. I was well aware of the extent and power of this great commercial monopoly, second only to the East India Company, which has crushed out the liberties and existence of so many nations in Asia, and committed barbarities and atrocities for which the annals of crime have no parallel. I knew the exacting policy of the Hudson's Bay Company would not hesitate to adopt any measure deemed necessary to insure their success, for their history had shown this, and the history of our wars with England establish the fact that an Indian alliance is their first requirement. With all these truths before me, I was still reluctant to believe that the Hudson's Bay Company would attempt the violation of the solemn obligations of a treaty, or that the British authorities would permit any action to be taken by the Hudson's Bay Company, in case an attempt was desired by them. Judge, then, of my astonishment and mortification in my late visit to San Juan to find an unworthy advantage had been taken of my forbearance to outrage our people in the most insulting manner.

For this thing was not done in a corner, but in open day. A British ship-of-war lands Mr. Dallas, the chief factor of the Hudson's Bay Company, who abuses one of our citizens in the harshest manner, and threatens to take him by force to Victoria for trial and imprisonment. Finding the citizen resolute in the defence of his rights, the Americans were informed the British Indians would be sent down upon them to drive them from the island. I shall substantiate these facts by the affidavits of American citizens of such position and character as cannot leave a doubt of their truth, and showing the attempted denial of Governor Douglas in his communication of the 13th instant is only a quibble. These affidavits would have been sent before this, but the disturbances at San Juan and the difficulty of communication in this country have delayed their completion.

It is proper also that I should inform you that Captain Alden, of our navy, commanding surveying steamer Active, has reported to me a conversation which he held with Governor Douglas since the occupation of San Juan, in which conversation Governor Douglas stated that, in the event of a collision between the forces of the two countries, he would not be able to prevent the northern Indians from driving our people from the island. This intimation from Governor Douglas is significant, as indicating the conception of such an action originated before the occupation of the island, and was the foundation of the reports of our people throughout the winter, that I did not consider at the time of sufficient importance as to notice in my official reports. From all the events which have occurred before and since the occupation of San Juan Island, I am convinced the British government have instituted a series of acts aiming at the eventual

sovereignty of San Juan Island, in consequence of its paramount importance as a military and naval station. Its position, in connection with the islands adjacent to it, has induced the English to call it the Cronstadt of the Pacific, and with good reason, for the power that possesses it will command a supremacy on this coast.

In the occupation of San Juan I have assumed a defensive position against the encroachments of the British, either by authority or through the medium of their Indians, upon the rights, lives, and property of our citizens. I was influenced by no other motive in placing troops upon the island.

In the matter of ownership, I have carefully investigated the treaty of 1846, defining the boundary between Great Britain and the United States, and I have also personally examined the premises in question under the fairest auspices, and I fearlessly assert a stronger title cannot exist than that which the treaty of 1846 establishes for the United States in San Juan, nor do I believe the British would have ever attempted the hazardous game they are now playing, but for the immense prize at stake.

I am, Colonel, very respectfully, your obedient servant,

WM. S. HARNEY,

*Brigadier General Commanding.*

Colonel S. COOPER,

*Adjutant General, Washington City, D. C.*



#### 14. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., August 30, 1859.*

SIR: I have the honor to enclose, for the information of the General-in-chief, copies of two reports from Lieutenant Colonel Casey, 9th infantry, commanding on San Juan Island.

These reports convey all the intelligence received from San Juan since my report to you of the 18th instant.

The number of troops forming Colonel Casey's command at this time is as follows :

Companies A and C, 4th infantry, and H of the 9th .....	139
Companies A, B, D, and M, of 3d artillery .....	181
Company D, 9th infantry .....	66
Company I, 4th infantry .....	64
Detachment of company A, engineers .....	11
<b>Aggregate .....</b>	<b>461</b>

Besides this force, Colonel Casey has with him eight 32-pounders, which I ordered to be taken from the steamer Massachusetts.

The ammunition for these guns consists of round shot—grape and canister. Captain Pickett's company took with them to the island one 6-pounder and two mountain howitzers, and Colonel Casey's command from Steilacoom increased that number by three mountain howitzers.

This command is busily engaged placing its position under intrenchment, and has been amply supplied with everything necessary and requisite to maintain itself for nearly three months. From the conformation of the island, and the position occupied by the troops, the English ships could not remain in the harbor under a fire from the 32-pounders, but would be compelled to take distance in the sound, from whence they could only annoy us by shells, which

would be trifling. The English have no force that they could land which would be able to dislodge Colonel Casey's command as now posted.

There is a rumor current that Rear-Admiral Baynes has countermanded Governor Douglas's orders to attempt a landing on San Juan by force; nothing official on the subject has reached me.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY,  
*Brigadier General Commanding.*

ASSISTANT ADJUTANT GENERAL,  
*Headquarters of the Army, New York City.*

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14 a.

HEADQUARTERS CAMP PICKETT,  
*San Juan Island, W. T., August 22, 1859.*

CAPTAIN: I have the honor to report that I received by the "Active," Captain Alden, the General's instructions of the 15th of August.

After a personal examination of the ground within a few miles of the harbor, I have taken up a position for a camp, which I think, above all others, will fulfil many of the conditions which I wished to obtain. The subject presented many difficulties.

Were it merely to select a position for an intrenched camp, where I would be able with my present force but to sustain myself against a land attack of an enemy, and where, at the same time, I would be secure from the shells of the ships-of-war, the question is solved.

About three and a half miles from the harbor I have discovered a very good position for an intrenched camp, secure from the shells of ships-of-war. But in order to keep the position to which I have just referred, the following alternatives would present themselves: I would either be obliged to give up my present guard at the landing, my position for the 32-pounders which bear upon and my oversight of the harbor, or render the troops whom I might maintain at these positions almost certain to be cut off, in case of a serious land attack, before they could reach the intrenched camp, nearly four miles off.

In view of all these circumstances, I have taken up a position near the Hudson's Bay establishment, and shall put my heavy guns in position to bear upon the harbor, and also on vessels which might take a position on the other side. Shells from the shipping may be able to reach us, and we may not be able to protect the camp from them; but I shall try.

The British authorities appear to be very sensitive with regard to anything like fortifying on the island. Owing to the peculiar circumstances of the case, we have none of the advantages which a case of actual war would confer, as regards keeping any action secret from the enemy.

Our every manœuvre is closely observed, and I have considered it best to act with circumspection lest a conflict should be forced upon us prematurely.

The General may rest satisfied that I shall give the whole matter my best abilities, and I trust everything will come out right.

Very respectfully, your obedient servant,

SILAS CASEY,  
*Lieutenant Colonel 9th Infantry, Commanding Camp.*

Captain ALFRED PLEASANTON, U. S. A.,  
*Acting Asst. Adjt. Gen., Dept. of Oregon, Fort Vancouver, W. T.*

14 b.

HEADQUARTERS CAMP PICKETT,  
*San Juan Island, W. T., August 22, 1859.*

CAPTAIN : I have the honor to report that I received by the "Northerner" the General's instructions of the 17th and 19th instant.

The "Massachusetts" arrived on the night of the 21st, and she is now unloading the government property from Fort Townsend. I will cause the freight of the Northerner to be placed on her, as directed.

I had ordered Major Haller on shore with his company before receiving the General's instructions so to do. It was not my intention to place another company on at present. When I do, I shall be happy to offer the position to Captain Pickett, as I am as fully impressed as the General with the gallant behavior displayed by him during the late difficulties on the island.

I have placed Lieutenant Kellogg, with his company, on duty in charge of all the artillery. That leaves, including Major Haller's, eight companies, which I have formed into an infantry battalion, and shall endeavor to have them efficiently exercised in drill.

Very respectfully, your obedient servant,

SILAS CASEY,

*Lieutenant Colonel 9th Infantry, Commanding Camp.*

Captain ALFRED PLEASANTON,

*Acting Asst. Adjutant General United States Army,*

*Department of Oregon, Fort Vancouver, W. T.*

15. *General Harney to Colonel Casey.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., September 2, 1859.*

COLONEL : The General commanding instructs me to enclose, for your information, a copy of a communication he addressed to Governor Douglas, under date of the 24th of August, in answer to the governor's letter to himself of the 13th of that month, which you have doubtless seen, it having appeared in the Victoria papers.

From the tenor of this answer you will perceive it is not the intention of the General commanding to remove any portion of the present force on San Juan Island from that position until the orders of the President are communicated on the subject.

You are therefore instructed to make such preparations for the comfort, efficiency, and health of your command as will anticipate a period of at least six months.

I am, Colonel, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain 2d Dragoons, A. A. Adj. Gen.*

Lieutenant Colonel S. CASEY,

*Ninth Infantry, Commanding Camp Pickett,*

*San Juan Island, Puget Sound.*

16. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., September 14, 1859.*

SIR : I have the honor to enclose, for the information of the General-in-chief, copies of two affidavits verifying the accusation of attempted outrage upon one



of our citizens on San Juan Island, which was charged to the British authorities and the Hudson's Bay Company of Vancouver's Island, in my communication to Governor Douglas of the 6th of August.

The affidavit of Lyman A. Cutler, the person upon whom the outrage was attempted of being taken by force to Victoria for trial by British laws, fully and completely refutes the denial of Governor Douglas, transmitted in his communication of the 13th of August, a copy of which has been sent to you.

\* \* \* \* \*

The want of propriety and good faith on the part of the British officials is so apparent, in the course pursued by them towards ourselves in the matter of San Juan Island, as to have forced Governor Douglas into a flimsy evasion of the facts which so strongly condemn them, and it is not surprising that Governor Douglas should attempt to throw discredit upon my action in the occupation of San Juan after being compromised by conduct he dares not acknowledge.

Governor Douglas speaks of the Hudson's Bay Company establishment as one of no significance or responsibility, and that its acts are no more to be considered than those of any other of the inhabitants of Vancouver's Island. In the face of such a statement I consider it my duty to inform the General-in-chief that this insignificant company has a positive military organization, with a discipline exceeding in rigor that of our own service. The forts of this company on this coast are armed with guns of much heavier calibre than any we possess, and in its service are steamers that can readily be applied to war purposes. The authorities of this Company have boldly claimed the exclusive ownership of San Juan Island, warning the United States officer, Captain Pickett, from the island, and threatening him, at the same time, with the civil authorities if he did not obey. This was reported in my communication of the 7th of August to the Adjutant General, and accompanying reports of Captain Pickett, copies of which have been furnished your office. This is the establishment whose acts Governor Douglas calls upon us to ignore, but which he carefully supports in its aggressions by both the civil and naval forces under his orders.

I trust the British government will see how useless it will be for them to attempt to maintain a course of conduct that exposes them to the reflection of having used unworthy means to obtain that to which they have no claim, and showing the Hudson's Bay Company to be a willing cat for extracting the chestnuts from the fire.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,  
*Brigadier General Commanding.*

ASSISTANT ADJUTANT GENERAL,  
*Headquarters of the Army, New York City.*

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16 a.

**WASHINGTON TERRITORY, *Whatcom County*:**

On this 7th day of September, A. D. 1859, appeared before the undersigned, a notary public in and for said county, Paul K. Hubbs, jr., who, being duly sworn, on his oath deposes and says: That he had an interview with General Harney while on his visit to this island, and stated to the General that there had been some trouble between one of the American settlers and some of the officers of the Hudson's Bay Company. Upon being asked by the General the cause of the trouble, he said that a short time since Mr Cutler, one of our citizens, had shot a hog belonging to the said Company, and immediately went to Mr. Griffin, the superintendent, and offered to pay for the hog. Mr. Griffin became enraged,

and declared that the Americans were a pack of intruders, and said that he was a fool for ever allowing a United States inspector of customs to come on the island. In the afternoon of the same day the Hudson's Bay Company's steamer Beaver arrived from Victoria with Mr. Dallas, a director of the Hudson's Bay Company, Dr. Tolmie, a chief factor, and some other parties, who, after holding an interview with Mr. Griffin, called on Mr. Cutler, and used some very threatening language, and, among other words, they said that they had a posse on board, and would take him a prisoner and carry him to Victoria for trial.

PAUL K. HUBBS, JR.

Subscribed and sworn before me this 7th day of September, 1859.

HENRY R. CROSBIE,

[L. S.]

Notary Public.

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16 b.

TERRITORY OF WASHINGTON, *County of Whatcom :*

Lyman A. Cutler, being duly sworn, deposes and says : That he has been a resident of San Juan Island since last April, at which time he located one hundred and sixty acres of land, agreeably to the pre-emption law, and upon which land he has ever since resided.

That on or about the 15th of last June he shot a hog belonging to the Hudson's Bay Company ; that immediately after so doing he proceeded to the house of the agent of the Hudson's Bay Company on the island, Mr. Griffin, and informed him of the fact, stating that it was done in a moment of irritation, the animal having been at several times a great annoyance, and that morning destroyed a portion of his garden ; he desired to replace it by another, or they could select three men, and whatever valuation they might place on the animal he would at once pay. Mr. Griffin, very much enraged, said the only way it could be settled would be by him (Cutler) paying one hundred dollars. He replied he was astonished both at Mr. Griffin's conduct and his proposal, and left him. The same afternoon Mr. Griffin, in company with three other persons, came to his house. He afterwards learned they were Mr. Dallas, one of the directors of the Hudson's Bay Company ; Dr. Tolmie, a chief factor, and a Mr. Fraser. Mr. Dallas asked him if he was the man that killed the hog ; he answered, yes. Mr. Dallas then, in a very supercilious manner, asked him how he dared do it. He replied that was not the proper way of talking to him ; that he dared do whatever he thought was justifiable, and he had no cause to blame himself in the matter ; as soon as he had killed the animal he went to Mr. Griffin and offered to make him a proper reparation—that he was ready to do it then ; had he have chosen to have acted otherwise, he could have said nothing about it, and Mr. Griffin would have never known his loss ; the animal was so worthless he would never have troubled himself about it. Mr. Dallas, in reply, stated this was British soil, and if he, Cutler, did not make the reparation demanded—one hundred dollars—he would take him to Victoria ; their steamer (the Hudson's Bay Company's steamer Beaver) was in port, and they had a posse at their command. He answered, Mr. Dallas must be either crazy or deem him so, to pay one hundred dollars for an animal that was not worth ten ; and as for taking him to Victoria for trial, that could not be done ; when they brought their posse he would have his friends to resist them ; this was American soil and not English ; and whilst he was willing to answer before any American tribunal for what he had done, no English posse or authority should take him before an English tribunal. Mr. Fraser commenced speaking about its being British soil, &c. ; he (Cutler) declined, however, having any conversation with him on the matter ; he had said all he had to say about it. Dr. Tolmie said nothing. Mr.

Griffin simply asked him if he ever knew him (Griffin) to disturb any of the settlers or insult them? He answered, never before that morning.

As they rode off one of the party remarked, "You will have to answer for this hereafter," or words to that purport.

Their manner and language were both insulting and threatening.

Afterwards, on the 27th of June, the morning Captain Pickett landed, the British steam frigate *Satellite* arrived and landed Mr. DeCourcy, who was installed as British magistrate for the island of San Juan, as Captain Prevost publicly stated; at the time he left Victoria nothing was known of the landing of the American troops; it seemed evident that the magistrate came over for the purpose of apprehending him, (Cutler;) that he understood process was issued by the said DeCourcy to compel his attendance to answer to his charge; that Captain Gordon, the English constable, with a posse, came to his house during his absence, on or about the 29th or 30th of July; word was sent to him by Mr. Crosbie, the American magistrate, to come in and place himself under the protection of Captain Pickett; that he came, staid one day, and returned the next, Captain Pickett having informed him if they attempted in any way to interfere with him to send him word, and he should be protected at all hazards.

He is convinced that if troops had not been on the island he would have been taken by force and carried before an English magistrate. His reason for this belief is based on the fact that the English force on board the steam frigates *Satellite* and *Tribune* had orders to obey any requisition that Mr. DeCourcy should make on them.

LYMAN A. CUTLER.

Subscribed and sworn before me this 7th of September, 1859.

[L. S.]

HENRIE R. CROSBIE, *Notary Public*.

PORT TOWNSEND,

*Washington Territory, September 2, 1859.*

ESTEEMED SIR: I find that we have some disappointed or annoyed gentlemen (by the recent movement of General Harney) that are puffing the letter of Governor Douglas in reply to that of General Harney.

The General, it seems, did not say in his letter anything relative to the inroads and murders committed by the northern Indians, but confined himself to the immediate subject of grief, that of the threatened taking of an American citizen to Victoria for trial.

How beautifully the Governor in his reply "finesses" out of. In substance, he says that "the government did not threaten," &c., all of which is true theoretically; but practically, the Hudson's Bay Company, with half a dozen armed steamers, the government governor being the head of the company, and his son-in-law, Mr. Dallas, the chief director and *the power* that practically moves the Hudson's Bay Company and the governor, did land and go to "the man that shot the boar," and threaten to take him on board their steamer (not the government steamer, but that of the Hudson's Bay Company) to Victoria; and finding they (five of them) could not do it, left with a threat to send the *Plumper*, a British government frigate for him, and, as I am reliably informed, did afterwards put the magistrate on the island, who sent three times after him, every time being watched by our peace officers and posse with reliance on our government officers and men.

Very truly, yours, &c.,

PAUL K. HUBBS.

I am not personally acquainted with General Harney, but his timely aid and position taken meets the unbounded admiration of the citizens of this Territory.

P. K. H.

His Excellency, the President, JAMES BUCHANAN.

17. *Governor Gholson to General Harney.*

EXECUTIVE OFFICE,  
*Olympia, Washington Territory, August 21, 1859.*

SIR: In view of the excited state of a portion of the people (Gov. D. included) on Vancouver's Island, &c., I have thought that a judicious regard for the welfare of this Territory and the success of our arms, (should a collision occur,) perhaps, made it my duty to inform you that we have about (1,000) one thousand of small arms, (850) eight hundred and fifty muskets, ordinary, and (150) one hundred and fifty muskets (rifled,) and (4) four twelve-pound mountain howitzers, and that for none of these have we a shot, shell, or cartridge.

Permit me to say, General, that as we shall be wholly dependent upon your orders for a supply, (if I correctly understand the regulations of the War Department,) I shall be pleased (either now or at such time as your *discretion* may direct) to receive whatever supplies you may think proper to order to this place.

I have the honor to be, General, your most obedient servant,

R. D. GHOLSON,  
*Governor of Washington Territory.*

Brigadier General W. S. HARNEY,  
*Headquarters Department of Oregon.*

[Indorsement.]

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., September 19, 1859.*

Respectfully forwarded for the information of the General-in-chief, who is notified that eighty-five thousand rounds of ordinary musket ammunition, fifteen thousand of rifled-musket, and two thousand rounds of mountain howitzer ammunition has been placed at Fort Steilacoom, subject to the requisition of Governor Gholson, in case of an emergency.

W. S. HARNEY.  
*Brigadier General Commanding.*

18. *General Harney to Mr. Floyd.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., October 10, 1859.*

SIR: I have the honor to acknowledge the receipt of your communication of the 3d of September last, transmitting the views of the President of the United States in reference to the military occupation of San Juan or Bellevue Island, as reported in my despatch of the 19th of July last, addressed to the General-in-chief.

Since the date of that despatch other events have transpired, which are conclusive in showing the intentions of the colonial authorities of Great Britain were directed towards assuming a positive jurisdiction over the island of San Juan. These occurrences have all been reported in a regular course of correspondence to the General-in-chief, duplicates having been transmitted to the Adjutant General.

The President expresses an anxiety to ascertain whether, before proceeding to act, I communicated with Commissioner Campbell, who was intrusted by the government of the United States, in conjunction with the British commissioner, to decide the boundary question. In reply, I desire to inform His Excellency, the President, that no official communication had passed between Commissioner

Campbell and myself in reference to the boundary, previous to the occupation of San Juan Island by Captain Pickett's company, for the reason that no exigency had arisen requiring it. In the personal interviews I have had with Commissioner Campbell since my arrival on this coast, he has always assured me that there could be but one solution of the boundary question under the treaty of June 15, 1846, and that was to be obtained by taking the mid-channel of the "Canal de Haro," or Straits of Haro, as the boundary line between the United States and Great Britain. He has several times stated that a strict construction of the treaty will not only give us the Haro group of islands, of which San Juan is the most important, but also the Saturna Island, which is yet nearer to Vancouver. This island, he said, he was willing to give to Great Britain, under a liberal and generous construction of the treaty.

In each of these interviews Commissioner Campbell has deplored the course pursued by the British government in the opposition they made to the settlement of this question, and the delays continually seized upon by the British commissioner to prevent coming to an early decision. Commissioner Campbell appeared to be earnestly impressed with the conviction that the British government intended to keep this an open question until some future time, when they could advance their claims to better advantage, as they had no foundation in justice or right. I saw Commissioner Campbell for the last time at Simiashmoo, on the 7th day of July last; at that date neither he nor myself had any knowledge to induce us to believe the colonial authorities of Great Britain had attempted to assume jurisdiction over San Juan. When Captain Pickett's company arrived at San Juan, it appears Commissioner Campbell was making an exploration of the islands in the Haro group, and visited San Juan the day Captain Pickett landed; he rendered the captain every assistance, and approved the course that had been pursued. Captain Pickett landed on the 27th of July, and Commissioner Campbell remained in that vicinity until the 16th of August, when I received a private communication from him, a copy of which is enclosed. I immediately answered it officially, giving him my reasons in full for occupying San Juan; this would have been done at the time Captain Pickett's order was issued, but I did not know his whereabouts until I received his communication. A copy of this answer to the Commissioner is also enclosed, and a copy of his reply dated the 30th of August.

I would respectfully call the attention of the President to the unqualified denial of Governor Douglas, in his despatch of the 13th of August, that any attempt had ever been made to arrest an American citizen and convey him to Victoria to be tried by British laws. At the very moment this denial was being penned three British ships-of-war were in that harbor by the orders of Governor Douglas, to support a British stipendiary magistrate sent by Douglas to arrest the same American citizen (Cutler) of San Juan, who would have been arrested but for the positive interference of Captain Pickett; indeed, so pressing and urgent were the British to possess themselves of Cutler that Captain Pickett did not hesitate to report his capture could only be averted by occupying the island in force.

Such are the facts of this case, in which the British government furnished five ships-of-war, carrying one hundred and sixty-seven guns and from two to three thousand men, to an unscrupulous colonial governor for the purpose of wresting from us an island that they covet. Such punic faith should never be tolerated, however plausible the pretext upon which it may be founded.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY.

*Brigadier General Commanding.*

HON. SECRETARY OF WAR,

*Washington City, D. C.*



18 a.

STEAMER SHUBRICK,  
*San Juan Harbor, August 14, 1859.*

MY DEAR GENERAL: Captain Alden is about to leave the harbor for Fort Vancouver, with despatches from Colonel Casey, and I take the opportunity of dropping you a line in relation to the state of affairs resulting from the landing of troops on the island of San Juan.

When I learned from Captain Pleasonton that Captain Pickett's company was ordered to San Juan, I thought it was a very proper movement for the protection of American settlers from northern Indians, and from the interferences of the Hudson's Bay Company's agents, who had recently been threatening to take one of the settlers to Victoria for trial; and I did not anticipate from it any serious objection on the part of the British authorities of Vancouver's Island—certainly no forcible opposition—troops at various times heretofore having been sent there at intervals, in small detachments, for the protection of the settlers against the Indians.

But I happened to be making an exploration of the archipelago at the time Captain Pickett arrived, and for several days after he landed I was anchored in this harbor; and I soon saw that it was going to produce a great excitement unless managed with great discretion. Before I saw Captain Pickett's instructions I did not suppose it possible that any collision could arise between the United States and the English troops, and I took it for granted that his duties would be confined to the objects specified hereinbefore. While the boundary line still remains unsettled, and the commission appointed to determine the boundary line still existed, I did not suppose any resistance would be made by Captain Pickett to the landing of the British troops, if they thought proper, as a matter of protection to English subjects on the island, to station a force on the island. It did not seem to me, under present circumstances, that we should be justified in going to the extent of refusing to allow them to land troops for peaceable purposes. I found that Captain Pickett had different views, derived from your instructions, which he confidentially showed to me. I perceived that they were susceptible of the interpretation he gave them, though they were not directly mandatory on the subject; and supposing it possible, if not probable, that you might have received instructions from the War Department for the occupation of the island, I felt a delicacy in interfering further in the matter, lest I might be disturbing plans well considered by you and determined on by the government. At the same time, as I had no intimation on the subject from the State Department, I felt considerably troubled lest there might be some misunderstanding.

I was called upon officially by my colleague, Captain Prevost, the British commissioner for the settlement of the water boundary, to take steps individually, or in concert with him, to protest against the armed occupation of the island, it being intimated that British troops would be landed. As I did not consider it my duty, as commissioner, to interfere with the operations of the military forces of either government, I declined to take the steps indicated. Thus far no serious results have followed from the presence of troops on the island; but there is a good deal of excitement among the authorities of Vancouver's Island, and, doubtless, a great deal of mortification, and, if I may be permitted to advise, I would recommend caution, so as to prevent, if possible any collision, which, I think, under no circumstances ought to be allowed to occur.

However certain may be your conviction that the boundary line, according to the treaty, should run down the Canal de Haro—and I have never hesitated, when asked, to say that such is the ground I have taken as commissioner, and that in this I believe I will be supported by the government—still the question



has not been authoritatively decided; and unless you have some intimation from the War Department which has governed your actions, I fear that the decided action you have taken in declaring the island American territory may somewhat embarrass the question. I shall be greatly relieved to learn that you have some authority from the government for the decisive step you have taken, though I do not pretend to ask or desire the information in my official capacity. I thought it possible, if you had no directions from home, that you might be in error on some point regarding the Joint Commission, and therefore have taken the liberty of letting you know that it still exists, notwithstanding the slow progress made in settling the boundary question.

I presume Colonel Casey has fully informed you of everything that has taken place since his arrival, and therefore I need say nothing further.

Hoping you will excuse the liberty I have taken in writing you thus freely, I am, my dear General, very respectfully and truly, your obedient servant,  
**ARCHIBALD CAMPBELL.**

Brigadier General W. S. HARNEY,  
*United States Army.*

NOTE BY THE DEPARTMENT OF WAR.—See General Harney's letter to Mr. Campbell, August 16, with No. 11 of these papers, [p. 169.]

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18 b.

CAMP SIMIAHMOO, *August 30, 1859.*

MY DEAR GENERAL: I had the pleasure of receiving, on the 22d instant, your letter of the 16th, placing me in possession of the facts connected with the occupation of San Juan Island by some of the troops under your command. For the trouble you have taken to furnish me this information, in the midst of more pressing and important occupations, I beg to return you my sincere thanks. Had I known your views earlier, I should have been free from the embarrassment expressed in my letter to you of the 14th instant. The rumor in regard to my departure for Washington City, which prevented your communicating this before, had no foundation whatever.

In a few days I contemplate a trip along the 49th parallel as far as Fort Colville. I shall return to this place via the Columbia river towards the middle of October, by which time you will probably have received answers to your despatches to Washington, which I trust may be satisfactory to you. Looking forward with pleasure to meeting you at that time at Fort Vancouver, I am, my dear General, very respectfully and truly, your obedient servant,

**ARCHIBALD CAMPBELL.**

Brigadier General W. S. HARNEY,  
*United States Army.*

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19. *General Scott to the Adjutant General.*

HEADQUARTERS OF THE ARMY,  
*Portland, Oregon, October 22, 1859.*

SIR: The General-in-chief desires me to report, for the information of the Secretary of War, that he arrived in good health at Fort Vancouver on the night of the 20th instant, and had an interview with Brigadier General Harney the following morning.

The answer of that officer, of October 10, to the Secretary of War, in answer to his communication of September 3, gave an account of the affairs existing at the island of San Juan to that period, since when nothing of interest has occurred.

Captain Pickett, 9th infantry, the judge advocate of a general court-martial, ordered by General Harney to convene at Fort Vancouver, who arrived here yesterday, just from the island, reports everything quiet, and that the British vessels of war had all returned to their usual anchorage near Victoria except one—the Satellite.

The steamer *Northerner*, on which the General is a passenger, leaves this place this afternoon for Puget Sound, and, on her arrival in those waters, it is his intention to go on board the government steamer *Massachusetts*, at Port Townsend, and from thence open a correspondence with the British authorities. The General does not intend to pass beyond the limits of the United States.

Commissioner Campbell is on his way from Colville to Fort Vancouver, and may arrive at the latter place in a day or two.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

*Assistant Adjutant General.*

Colonel SAMUEL COOPER,

*Adjutant General U. S. Army, Washington, D. C.*

## 20. General Scott to the Adjutant General.

HEADQUARTERS OF THE ARMY,  
*Fort Townsend. W. T., October 26, 1859.*

SIR: By direction of the General-in-chief I enclose, for the information of the Secretary of War, a copy of his communication of yesterday's date to His Excellency James Douglas, governor of Vancouver's Island, and its dependencies, containing a proposition to serve as a basis for the temporary adjustment of the difficulties existing at the island of San Juan between our government and that of Great Britain. Lieutenant Colonel Lay, who was charged with the delivery of the communication, is momentarily expected, in the revenue cutter on this station, with the Governor's reply, and if received in time for the mail a copy thereof will also be enclosed.

The General-in-chief further intends to send the substance of the communications by the overland mail from San Francisco to the commanding officer of Fort Leavenworth, with instructions to telegraph the same to the Secretary of War.

The steamer *Northerner* takes her departure from Fort Townsend this morning, via Victoria, for San Francisco, where she is expected to arrive in ample time, with the mails, for the steamer to leave that port on the 5th proximo. This communication will be sent by the *Northerner*.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

*Assistant Adjutant General.*

Colonel S. COOPER,

*Adjutant General U. S. Army, Washington, D. C.*

21. *General Scott to Mr. Floyd.*

[Telegram.]

FUCA STRAIT, *October 27,*  
*via Leavenworth, November 24.*

HON. J. B. FLOYD,

*Secretary [of War,] Washington :*

Two days ago I despatched from Fort Townsend a communication to Governor Douglas, proposing a temporary adjustment on the basis suggested by the President in his instructions to me. There has been no answer yet. No doubt the proposition will be accepted. Everything tranquil in these islands.

WINFIELD SCOTT.

22. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., October 29, 1859.*

SIR : I have the honor to enclose, for the information of the General-in-chief, a copy of a communication from Lieutenant Colonel Casey, commanding on San Juan Island, in which he reports that Rear-Admiral Baynes, commanding Her Britannic Majesty's fleet on the Pacific coast, was actually on board the British steamship-of-war Tribune, in the harbor of San Juan Island, at the time Colonel Casey landed his troops, and when Captain Hornby, of the British navy, the commander of the Tribune, informed the Colonel, in presence of the British and American commissioners, that Admiral Baynes was then at Esquimaux harbor, near Victoria, Vancouver's Island.

I mentioned this fact to the General-in-chief, in conversation at the time of his arrival at this post, but I deem it of such importance in showing the duplicity and bad faith exercised towards us by both the colonial and naval authorities of Great Britain in reference to San Juan Island, that I desire to place it on record.

This statement exposes three high officials of Her Britannic Majesty's service, viz : the British commissioner, the admiral, and the senior captain of the navy in these waters, to the imputation of having deliberately imposed a wilful falsehood upon the authorities of a friendly nation to advance the sinister designs of the British government in obtaining territory that rightfully belongs to the United States.

Is it too much to suppose they would be guilty of like conduct should they be permitted to assume a position in which it would aid their purposes ?

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,  
*Brigadier General Commanding.*

The ASSISTANT ADJUTANT GENERAL,  
*Headquarters of the Army, Port Townsend,*  
*Puget Sound, W. T.*

22 a.

FORT VANCOUVER, W. T., *October 28, 1859.*

CAPTAIN : In my communication of the 12th August, from San Juan Island, narrating the events which had transpired on that island, from the time of my arrival with a re-enforcement of three companies of infantry from Fort Steilacoom, it

will be seen that I had requested an interview with Rear-Admiral Baynes, commanding Her Britannic Majesty's fleet on the Pacific coast. As I did not in that communication state the principal reason which governed me in not proceeding to the flag-ship *Ganges*, for the purpose of having an interview with the Admiral on board that ship, in the harbor of Esquimaux, I have thought it due to myself that that reason should be made known to the General commanding the department, and I would respectfully request that the following be considered a part of my communication of the 12th August, 1859, viz :

Soon after my conference with Captain Hornby, I was informed by Mr Campbell, the United States commissioner, that Rear-Admiral Baynes was actually on board the British steamship *Tribune*, in the harbor of San Juan Island, at the very time I was informed by Captain Hornby, in the presence of the British and American commissioners, that the Admiral was at Esquimaux harbor, twenty-five miles distant.

I was somewhat astonished at this, and considered that I had not been dealt with with that openness and candor which the object to be brought about seemed to demand.

I resolved, notwithstanding this, to comply with my promise to meet the Admiral at Esquimaux harbor ; but knowing what I did, thought it not incumbent on me to repair on board the *Ganges*, for the purpose of the contemplated interview.

Very respectfully, your obedient servant,

SILAS CASEY,

*Lieutenant Colonel 9th Infantry, Commanding on San Juan.*

Captain A. PLEASANTON,

*Acting Assistant Adjutant General,*

*Department of Oregon, Fort Vancouver, W. T.*

### 23. General Scott to Mr. Floyd.

HEADQUARTERS OF THE ARMY,

*At Sea, December 8, 1859.*

SIR: After the despatch of October 26, by Lieutenant Colonel Thomas to the Adjutant General, I had no opportunity of communicating with the Department before the steamer from San Francisco of the 21st ultimo, and in her I embarked for home.

This letter will be accompanied by copies of my correspondence and orders on the subject of the island of San Juan, while I was on the Pacific coast, viz :

1. My communication to Governor Douglas, October 25.

Hasty memorandum by Lieutenant Colonel Lay, October 26. [Copies were communicated by Lieutenant Colonel Thomas's despatch.]

3. Governor Douglas to me, October 29.

4. My letter to Governor Douglas, November 2; and

5. Project of a temporary settlement, November 2.

6. Governor Douglas to me, November 3.

7. My letter to Governor Douglas, November 5.

8. My special orders—sending troops from San Juan, November 5.

9. Governor Douglas to me, November 7.

10. The same, enclosing deposition, &c., November 7.

11. My letter to Governor Douglas, November 9.

12. Extract of instructions to General Harney, November 9; and

13. Extract of instructions to Captain Hunt furnished Governor Douglas, November 9.

14. Lieutenant Colonel Thomas to Captain Hunt, November 9.
15. Lieutenant Colonel Thomas to Lieutenant Colonel Casey, November 9.
16. Lieutenant Colonel Thomas to General Harney, November 9.
17. My letter to General Harney, November 15.
18. Special order, November 15.

It will be seen that the British governor having assured me that he entertained no design of attempting the dislodgment by force of our troops from the disputed island, I immediately, in order to take from our position every semblance of hostility or menace, took measures to reduce that force to a single company of infantry, with its proper arms only, (for the protection of American settlers,) with the understanding that, in the same spirit, one of the vessels of war (the larger) in the harbor of San Juan would also be sent off at an early day.

And here it is proper to remark that, from the beginning of the recent difficulties, there has virtually been a joint occupation of the island, by our troops in the land, and by one or more British vessels of war in the harbor.

I have the honor to be, sir, with high respect, your obedient servant,  
WINFIELD SCOTT.

Hon. JOHN B. FLOYD,  
*Secretary of War.*

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23 a.

#### HEADQUARTERS OF THE ARMY.

*Fort Townsend, October 25, 1859.*

The undersigned, Lieutenant General and Commanding in chief the Army of the United States, having been drawn to this frontier by the apprehension of some untoward collision of arms between the forces of the United States and those of Great Britain in and about the island of San Juan, the sovereignty of which is claimed by both nations, does not hesitate, in the great interests of peace, assumed to be as important to one party as to the other, at once to submit for the consideration of His Excellency the following proposition, to serve as a basis for the temporary adjustment of any present difficulty, until the two governments shall have time to settle the question of title diplomatically.

Without prejudice to the claim of either nation to the sovereignty of the entire island of San Juan, now in dispute, it is proposed that each shall occupy a separate portion of the same by a detachment of infantry, riflemen, or marines, not exceeding one hundred men, with their appropriate arms only, for the equal protection of their respective countrymen in their persons and property, and to repel any descent on the part of hostile Indians.

In modification of this basis any suggestion His Excellency may think necessary, or any addition he may propose, will be respectfully considered by the undersigned.

This communication will be handed to His Excellency by Lieutenant Colonel Lay, aide-de-camp of the undersigned, who has the honor to subscribe himself,

With high respect, His Excellency's obedient servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,  
*Governor of the Colony of Vancouver's Island  
and its Dependencies, and Vice-Admiral of the same.*

23 b.

*Hasty Memorandum.*

VICTORIA, VANCOUVER'S ISLAND,  
*Night of October 26, 1859.*

His Excellency Governor Douglas authorizes me to say that, having yet had no time to consider in detail the proposition offered by Lieutenant General Scott, nor to consult with his official advisers here, he is at a glance satisfied that no obstacle exists to a completely amicable and satisfactory adjustment, (continuing throughout the period of diplomatic discussion respecting the title to the island of San Juan,) either upon the plan suggested by General Scott, or some other that may be mutually agreed to after advisement.

His Excellency has read this memorandum and retains a copy.

G. W. LAY,  
*Lieutenant Colonel U. S. Army.*

23 c.

VICTORIA, VANCOUVER'S ISLAND,  
*October 29, 1859.*

SIR: I have had the honor of receiving by the hands of Lieutenant Colonel Lay your note of the 25th instant, communicating to me the reasons which have drawn you to the frontier of Washington Territory, and, for the great interests of peace, making a proposition to serve as a basis for the temporary adjustment of the present difficulty, arising out of the occupation of the island of San Juan by troops of the United States.

2. In the first place, I beg you will permit me to offer you my warm congratulations upon your arrival in this neighborhood, and the assurance of my earnest desire to co-operate with you in the most cordial spirit. I thank you for the frank and friendly tone which characterizes your note, and I trust you will believe me when I say that if I am not able entirely to accede to your views it proceeds solely from the necessity which exists under present circumstances that I should take no step which might in the least embarrass the government of Her Britannic Majesty in any line of action which they might think fit to adopt. You have been specially accredited by the government of the United States, and I fully appreciate the fact; but I, on the contrary, am not in possession of the views of Her Majesty's government on this matter, and, therefore, am not at liberty to anticipate the course they may think fit to pursue.

3. You propose, without prejudice to the claim of either nation to the sovereignty of the entire island of San Juan, that each shall occupy a separate portion of the same by a detachment of infantry, riflemen, or marines, not exceeding one hundred men, with their appropriate arms only, for the equal protection of their respective countrymen in their persons and property, and to repel any descent on the part of hostile Indians. For the reasons above given you can readily understand, sir, that were I to accede to this proposition I should at once be committing Her Majesty's government, and I believe I should at the same time, on their behalf, be assuming an attitude which I do not think they would now be desirous of maintaining. I admit that the protection of the citizens of both nations who are now resident on the island is a matter which cannot be overlooked or lightly treated, but the principal protection that may be required is from dissensions amongst themselves, and not against hostile Indians, from whom I do not apprehend there is the slightest danger of molestation.

4. I again assure you that I am most cordially disposed to co-operate with you in the frankest manner to assist in removing any and every cause which



might unhappily disturb the particularly satisfactory relations at the present moment existing between Her Majesty's government and that of the United States; and I conceive that that end can be best attained by replacing matters at San Juan as they were before the landing of the United States troops—the "*status*" established on the moderate and conciliatory views laid down by Secretary Marcy's despatch to Governor Stevens, of the 14th July, 1855.

5. An arrangement on that footing would bring the whole affair to a conclusion satisfactory to both parties, and so highly honorable to the government of the United States that I feel sure it would at once remove any cause of complaint which Her Majesty's government might be reasonably expected to entertain.

6. I would therefore submit, for your consideration, that for the protection of the small British and American population settled on the island there should be a joint civil occupation, composed of the present resident stipendiary magistrates, with such assistants as may be necessary, and that the military and naval forces, on both sides, be wholly withdrawn.

7. Should it, however, hereafter appear that a military force is indispensable for protection, I can see no objection to such a force being landed upon San Juan, with such understanding as the British and American authorities may mutually determine upon.

8. It is no doubt, sir, fresh in your recollection that the *sole* reason assigned to me by General Harney for the occupation of San Juan was to protect the citizens of the United States from "insults and indignities" offered them by the British authorities at Vancouver's Island. In my reply I, in the most earnest and emphatic manner, repudiated the aspersion and endeavored to prove to General Harney, that for the cause alleged, there was no necessity for the presence of United States troops on the island of San Juan; and I therefore begged, for the sake of peace, that he would withdraw the troops. He, however, declined to do so, upon the plea that he had no assurance that American citizens would continue to be free from molestation from the British authorities. I feel confident, sir, that I need not renew to you my assurance that the British authorities in Vancouver's Island have no intention, under existing circumstances, to interfere with any of the citizens of the United States who may be resident upon San Juan, and I therefore anticipate that a consideration of these facts, together with those before mentioned, will remove any difficulty you may have apprehended touching the withdrawal of the United States troops from San Juan, and I earnestly trust will induce you to entertain with favor the proposition I have made.

9. I hope, sir, I may have the pleasure of meeting you personally, when minute details could be so much better discussed than by letter; and it would indeed be a source of gratification to me to have the honor of welcoming to the shores of Vancouver's Island an officer so highly distinguished as he whom I now have the honor of addressing, and who, I beg, will allow me to subscribe myself as his most obedient, humble servant,

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,  
*Commanding in Chief the Army of the United States.*

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23 d.

HEADQUARTERS OF THE UNITED STATES ARMY,  
*False Dungeness Harbor, W. T., November 2, 1859.*

I have the honor to acknowledge your communication of the 29th ultimo, (the receipt of which has been much delayed by winds and fogs,) in reply to mine dated four days earlier.

It is with regret I learn that the basis for the settlement of the immediate San Juan difficulty I had the honor to submit has not received your acceptance, and that sentiment is deepened at finding myself unable to accept your proposed substitute. We ought not, however, to despair of finding the means of maintaining the peace of the frontier till the good sense and good feelings of our governments shall have had time to supervene and directly to dispose of the whole subject of the disputed island forever.

Your excellency seems to regard the preliminary evacuation of that island by the American troops as a *sine qua non* to any adjustment of the immediate question before us. I am sure that at the date of the instructions which brought me hither, and in the anxious interviews between Mr. Secretary Cass and Her Britannic Majesty's minister, Lord Lyons, residing near the government of the United States, no such suggestion was made by his lordship, or it would not only have been communicated to me, but have, in all probability, stopped this mission of peace.

You "submit for [my] consideration that for the protection of the small British and American population settled on the island there should be a joint civil occupation, composed of the present resident stipendiary magistrates, with such assistants as may be necessary, and that the military and naval forces on both sides be wholly withdrawn."

It strikes me, as a decisive objection to this basis, that if a magistrate (judge or justice of the peace) could be legally (except by treaty between sovereign powers) established on neutral territory, such functionary could not be subjected to the orders of any officer of the United States army, nor even to the direct control of the President of the United States, though appointed by an American territorial governor claiming jurisdiction over the disputed territory, and therefore not to be considered a fit person to be intrusted with matters affecting the peace of two great nations. Besides, I have adopted the impression of my countrymen generally on this frontier, that the few citizens settled on the San Juan Island, though, like all other American pioneers, brave and possessed of effective weapons for defence and attack, do in reality stand in need of troops for protection not only against predatory bands of Indians coming from foreign parts, but also from such bands residing within our own limits. A marauding descent of this kind was made but a few weeks since upon the village of Whatcom, in Bellingham Bay, when a small detachment of soldiers was actually sent from the disputed island to protect the villagers against a threatened renewal of the outrage! (I am but just returned from that village.)

Moved by the foregoing considerations and the spirit of peace which is known to animate our governments, I will respectfully ask your excellency to review your decision on my original proposition, which, the better to show its probable workings 'if adopted, I have somewhat elaborated in the accompanying "*Projet of a temporary settlement, &c.*" I am persuaded that, on mature reflection, you will find nothing in it to hurt English pride or to prejudice English interests, but much to soothe past irritations on both sides and to prevent any local conflict. The details of the plan are no doubt susceptible of improved modifications, but I must candidly say that I do not see how I can positively consent to a change in the principle.

Highly appreciating the personal compliments of Your Excellency, and reciprocating the kind feelings which prompted them, I have the honor to remain, with high consideration, Your Excellency's most obedient servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,

*Governor of the Colony of Vancouver's Island and*

*its Dependencies, and Vice-Admiral of the same.*

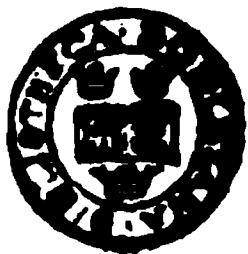
## 23 e.

*Projet of a Temporary Settlement, &c.*

WHEREAS the island of San Juan, in dispute between the governments of the United States and Great Britain, is now occupied by a detachment of United States troops, protection against Indian incursions having been petitioned for by American citizens, resident thereon, and against such occupation a formal protest has been entered on behalf of Her Britannic Majesty's government by His Excellency James Douglas, esquire, C. B., Governor of the Colony of Vancouver's Island and its Dependencies, and Vice-admiral of the same—

It is now proposed by Lieutenant General Scott, Commanding in chief the Army of the United States in behalf of his government, and in deference to the great interests of the two nations, that a joint occupancy be substituted for the present one, which proposition being accepted by His Excellency, it is hereby stipulated and agreed between the said Scott and the said Douglas that the substitution without prejudice to the claim of either government to the sovereignty of the entire island, and until that question shall be amicably settled, shall consist of two detachments of infantry, riflemen, or marines of the two nations, neither detachment of more than one hundred men, with their appropriate arms only, and to be posted in separate camps or quarters for the equal protection of their respective countrymen on the island in persons and property, as also to repel descents of marauding Indians.

And whereas pending such joint occupation a strict police over the island will be necessary to the maintenance of friendly relations between the troops of the two nations, as well as good order among the settlers, it is further stipulated and agreed between the parties, signers of these presents, that the commanding officer of each detachment composing the joint occupation shall be furnished with an authenticated copy thereof by the respective signers, to be regarded as a warrant and command to the American commander from the said Scott, and to the British commander from the said Douglas, to seize and confine, or to banish from the island, any person or persons whatsoever found or known to be engaged in fomenting any quarrel or misunderstanding between the officers or men of one of the detachments and the officers or men of the other, and, further, to treat in like manner all other offenders against the peace and good order of the island; it being, however, expressly understood and enjoined that such measures of correction shall only be applied to American citizens, or persons claiming to be such, by the American commander, or to British subjects, or persons claiming to be such, by the British commander.



23 f.

VICTORIA, VANCOUVER'S ISLAND,  
November 3, 1859.

SIR: Lieutenant Colonel Lay yesterday placed in my hands your despatch of the 2d instant, conveying to me your sentiments upon the subject of my proposal for the temporary adjustment of affairs in connection with San Juan, and informing me that you are unable to accept that proposal.

2. I regret, sir, for many reasons, that you did not accede to my suggestion of a joint civil occupation as a temporary expedient for preserving tranquillity, and especially so because the course you propose to me of a joint military occupation is one which I cannot assent to, or carry into effect, without the sanction and express instructions of my government.

3. I am authorized to maintain all treaties as they exist, but not to alter the

provisions or to disregard the stipulations of any; and, in short, I am sensible that it would not be advisable for me to anticipate, by any action on my part, the instructions I may soon receive from Her Majesty's government, unless there was an evident and imperative necessity for the adoption of such a course, which necessity, in my opinion, does not exist in the present instance.

4. I conceive that protection against all ordinary danger to which either British subjects or American citizens residing on the island of San Juan are exposed may be fully attained without resorting to the extreme measure of a joint military occupation; and, moreover, the expediency of affording protection to individuals who may settle on territory the sovereignty of which has not been determined may justly be questioned. Protection under such circumstances can, indeed, hardly be considered as a duty incumbent on governments; and, on my part, I am not left in doubt on the subject, as my instructions direct me to announce with reference to this colony that protection cannot be afforded to persons who, by wandering beyond the precincts of the settlements and the jurisdiction of the tribunals, voluntarily expose themselves to the violence or treachery of the native tribes.

5. You must permit me, sir, further to add, that Her Majesty's authorities in this colony have, with respect to the United States, committed no violation of existing treaty stipulations, nor been guilty of any act of discourtesy whatsoever towards the government of that nation, but have on all occasions during the late exciting events exhibited a degree of forbearance which will, I trust, be accepted as a guarantee that by no future act will we seek to impair the pacific relations existing between Great Britain and the United States.

6. Should you, sir, after the explanations I have herein given in reference to my official powers and position, proceed to carry out your pacific mission, and divest the large military force now on San Juan of its menacing attitude by removing it from the island, we will instantly withdraw the British naval force now maintained there; and as soon as I receive the instructions of my government, I shall be glad to co-operate with you in arranging a plan for the temporary maintenance of order and protection of life and property upon the island.

7. In the mean time you may rest assured that we will not disturb the "*status*" of San Juan by taking possession of the island, or by assuming any jurisdiction there to the prejudice of the position in which the question of title was placed by Mr. Secretary Marcy and Her Majesty's representative in the year 1855.

8. Again assuring you of my desire to act with you to the utmost of power in the most cordial manner and with the utmost frankness and sincerity, and renewing to you my expressions of high consideration and respect, I have the honor to remain, sir, your most obedient and humble servant,

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,

*Commanding in Chief the Army of the United States.*

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23 g.

HEADQUARTERS OF THE UNITED STATES ARMY,  
*False Dungeness Harbor, W. T., November 5, 1859.*

SIR: I have the honor to acknowledge a second communication from Your Excellency dated the 3d instant. Being assured therein that there is no intention on your part to attempt to dislodge, by force, the United States troops now in the temporary occupation of the island of San Juan, without instructions to that effect from your government, and being perfectly persuaded that the very

cordial relations which now happily subsist between the United States and Great Britain render the receipt of such instructions extremely improbable, I do not hesitate at once to order the number of the United States troops on that island to be reduced to the small detachment (Captain Pickett's company of infantry) originally sent hither in July last for the protection of American settlers (such protection being petitioned for by them) against neighboring and northern Indians.

A copy of my orders in the case I enclose herewith for the information of Your Excellency. They will be fully executed as soon as practicable by the employment of the United States propeller Massachusetts, the only craft suited to the purpose in these waters.

I have the honor to remain, with high consideration, Your Excellency's most obedient servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,  
*Governor of the Colony of Vancouver's Island  
 and its Dependencies, and Vice-Admiral of the same.*

After the foregoing communication was despatched the General-in-chief determined to leave Captain Hunt's company on the island, instead of Captain Pickett's, and a copy of his order, after modification, was subsequently sent to Governor Douglas to replace the one previously transmitted. The following is a copy of the order as finally issued.

L. THOMAS,  
*Assistant Adjutant General.*

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23 h.

[Special Orders, No. —.]

HEADQUARTERS OF THE ARMY,  
*United States Propeller Massachusetts, W. T., November 5, 1859.*

As soon as practicable, Lieutenant Colonel Casey, or other commanding officer on the island of San Juan, will proceed to send therefrom all the companies under his orders, except Captain Hunt's, to the posts to which they had previously belonged, viz: company I of the 4th infantry to Fort Townsend; company A of the 4th and H of the 9th infantry to Fort Steilacoom; company D of the 9th infantry to Fort Bellingham; and last, the companies of the 3d artillery to Fort Vancouver.

Captain Hunt and his company, and Assistant Surgeon Craig, will remain on the island till further orders, for the protection of the American settlers.

Lieutenant Colonel Casey will cause the heavy guns on the island to be replaced aboard of this propeller, and will send the light battery to Forts Townsend, Bellingham, and Steilacoom.

By command of Lieutenant General Scott:

L. THOMAS,  
*Assistant Adjutant General.*

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23 i.

VICTORIA, *Vancouver's Island, November 7, 1859.*

SIR: I have the honor to acknowledge your communication of the 5th November, announcing your intention to order the withdrawal of certain companies of United States troops, now in temporary occupation of the island of San Juan, and your intention to leave Captain Pickett's company of infantry for



the protection of the American settlers against neighboring and northern Indians, and transmitting a copy of your orders in that case to the commanding officer in the island of San Juan.

2. I shall have much pleasure in communicating your intention to Her Majesty's government, who will no doubt accept it as a proof of the desire of the United States to restore the former status of the disputed territory.

3. I trust, sir, that instructions will be issued to the officers of the United States, directing them to abstain from all acts in the disputed territory which are calculated to provoke conflicts, and in no case to attempt to exclude British subjects by force, or to interfere with them in any manner, or to exercise sovereign or exclusive rights within the disputed limits; and on our part Her Majesty's authorities will be enjoined to abstain from any acts of interference, or of exclusive jurisdiction, until the question of title is settled.

4. In that way I sincerely hope that all collision may be avoided.

With every assurance of esteem, I have the honor to be, sir, your most obedient servant,

JAMES DOUGLAS.

Lieutenant General W. SCOTT,

*Commanding in Chief the United States Army.*

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23 j.

VICTORIA, *Vancouver's Island*, November 7, 1859.

SIR: I have the honor to enclose to you herewith a deposition which has been forwarded to me, made by one William Moore, a British subject, concerning his having been apprehended by the United States authorities on San Juan Island, and compelled to work in the trenches, and, when released, deprived of the sum of seventy-five dollars.

2. I bring this matter to your notice with the full assurance that you will cause it to be investigated, and such reparation made as the circumstances may demand.

I have the honor to be, sir, your most obedient, humble servant,

JAMES DOUGLAS.

Lieutenant General WINFIELD SCOTT,

*Commanding in Chief the Army of the United States.*

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[Inclosure.]

I, William Moore, state as follows:

I. That I am a British-born subject, and a native of Sligo, in Ireland.

II. I have been trading with my canoe between Victoria and Bellevue Island for nearly two months, dealing in onions, potatoes, bread, milk, and sometimes liquor, taking with me on several trips from two to five gallons at a time.

III. Early on the morning of the 16th September last I sold to a party of the name of Powell, who is an employé of the Hudson's Bay Company, a bottle of rum, for which I received the sum of one dollar. Powell returned shortly after he took the rum away, and asked me if I was on good terms with an American of the name of Crow. I said I had never been on bad terms with him. About an hour after this occurred I saw this party, Crow, and the sheriff coming down towards my tent. The sheriff said, "I have a warrant for you, my man, and want you to come along with me." I went with him to the court-house, and arrived there about eight o'clock in the morning.



IV. I was tried the same day, and the judge (Crosbie) said I was guilty, and ordered me to the guard-house till next day. I was then put into a tent with six or seven soldiers, who were prisoners, and after I had been there about half an hour the sheriff said he had orders to search me, and accordingly took my purse, containing \$160.

V. On the morning of the 17th the prisoners turned out to work, and I answered to my name when it was called, and subsequently went to work in the trenches, rolling stones and shovelling earth there. Previously, however, to going to work I asked the sergeant of the guard if I was to work with the rest, when he replied "that he had orders from Captain English, the officer of the day, to put me to work with the rest."

VI. I worked in the trenches till the prisoners were called in to prepare for dinner, and between two and three o'clock a constable by the name of Cutler took me to the court-house. Judge Crosbie then told a constable to take \$75 from my purse, which was lying on the table, which he did, and gave me the rest of the money, and I was then informed that I was discharged. Judge Crosbie never asked me if I was a British or American subject.

WILLIAM <sup>his</sup> X MOORE.  
mark.

Sworn at Victoria, on this sixth day of October, in the year of our Lord one thousand eight hundred and fifty-nine, before me, having been first read over and explained to the said William Moore, who seemed perfectly to understand the same.

DAVID CAMERON, C. J.

I, Richard K. Powell, employé of the Hudson's Bay Company, at Bellevue Island, state as follows: That I personally saw William Moore at work in the trenches on Bellevue Island on the 17th September last, along with other prisoners, and I believe he was so put to work in consequence of orders from the court, or Judge Crosbie, the magistrate on the island.

R. R. POWELL.

Subscribed in presence of us, who have hereunto set our names as witnesses.

(D) JOHN COPLAND, of *Yates street, Victoria.*

(D) WILLIAM YILLECK, of *Esquimaux.*

[See statement of case of William Moore, page 205.]

23 k.

HEADQUARTERS OF THE ARMY,

*U. S. Propeller Massachusetts, W. T., November 9, 1859.*

SIR: I have the honor to acknowledge the receipt, at the same time, of your two notes of the same date, the 7th instant.

I am pleased to learn that "Her Majesty's authorities [on San Juan Island] will be enjoined to abstain from any acts of interference or of exclusive jurisdiction [in respect to American citizens] until the question of title is settled."

In the same spirit I had earlier determined to instruct our commanding officer on the island to allow no person claiming to be a functionary of Washington Territory to interfere with any British subject residing or happening to be on the same island whilst it shall remain in dispute between our respective governments; and I shall add this further instruction, that if any British subject should become a disturber of the peace of the island, or a seller of strong liquors to American soldiers, without permission from their commander, the latter shall represent the case to the nearest British authority and respectfully ask for the

instant removal of the offender; and if afterward he shall return to the island without permission the American commander may expel him therefrom without further ceremony.

I touch the complaint of William Moore, supported by his deposition, presented to me by Your Excellency, with great reluctance—first, because the wrong done him, if any, was mainly at the hands of a judge, I presume, of Washington Territory, and consequently beyond my control; and, second, because I do not doubt that Moore has grossly misstated or exaggerated his case. I am at a distance from the island and from every officer who may have known anything of the transaction in question, and am, moreover, in the act of taking my departure for Washington, but shall refer the matter specially to Lieutenant Colonel Casey, the present commander on the island, who will investigate the complaint carefully, and who, I am sure, will take pleasure in redressing, as far as may be in his power, any wrong Moore may have sustained. And Your Excellency will not fail to perceive that I have in my instructions to Captain Hunt, as shadowed above, taken measures to guard against future interference with British subjects.

I have the honor to remain, with high consideration, Your Excellency's most humble servant,

WINFIELD SCOTT.

His Excellency JAMES DOUGLAS, Esq., C. B.,  
*Governor of the Colony of Vancouver's Island  
 and its Dependencies, and Vice-Admiral of the same.*

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[Inclosure 23 k.]

The following extracts of communications addressed from the Headquarters of the Army to different commanders were furnished to his excellency Governor Douglas, with the General-in-chief's letter of November 7, 1859:

1. "The General-in-chief wishes it to be remembered that the sovereignty of the island (San Juan) is still in dispute between the two governments, and, until definitively settled by them, that British subjects have equal rights with American citizens on the island.

"L. THOMAS,  
*"Assistant Adjutant General."*

[To Captain Hunt, commanding company C, fourth infantry, San Juan Island.]

2. "For your information and guidance I put under cover with this copies of the General's communications to the Governor of Vancouver's island, dated the 5th and 9th instant, respectively, as also a copy of his special order on the same subject. These papers will show the *spirit* in which it is expected you will execute the delicate and important trust confided to you, the General having full confidence in your intelligence, discretion, and (in what is of equal importance in this case) your *courtesies*.

"L. THOMAS,  
*"Assistant Adjutant General."*

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23 l.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,  
*Off Port Townsend, W. T., November 9, 1859.*

SIR: Your company, with only its appropriate arms, is to be left alone on San Juan Island, when you will revert to the instructions from the Headquarters of the Department of Oregon, dated July 18, 1859.

For your information and guidance I put under cover with this copies of the

General's communications to the Governor of Vancouver's Island, dated the 5th and 9th instant, respectively, as also a copy of his special orders on the same subject. These papers will show you the spirit in which it is expected you will execute the delicate and important trust confided to you, the General having full confidence in your intelligence, discretion, and (in what is of equal importance in this case) your *courtesies*.

It is, further, the direction of the General that after the departure of Captain Pickett's company you occupy his part of the camp, where your men will be better sheltered during the winter, and also be further removed from the establishment of the Hudson's Bay Company. Captain Pickett will, of course, be at liberty to take back to Fort Bellingham the property carried over to the island, such as doors, window-sash, &c., as also his company property, but it is hoped that some part of the excellent shelter he erected may be transferred to you.

I am, sir, very respectfully, your obedient servant,

L. THOMAS.

Captain LEWIS C. HUNT,  
*Commanding Company C. 4th Infantry,*  
*San Juan Island.*

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23 m.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,  
*Off Port Townsend, W. T., November 9, 1859.*

SIR: I herewith put under cover, for your information and government, the following papers, viz:

1. A copy of Special Orders, dated November 5, 1859.
2. An open package for Captain Hunt.

I am desired by the General-in-chief to add that he wishes you to leave with Captain Hunt's company two effective subalterns.

I enclose a copy of an affidavit made at Victoria the 6th of October last, by William Moore, claiming to be a British subject, who complains of injustice done him, not only on the part of the civil authorities of Washington Territory, but on that of the military. His statement is no doubt greatly misstated and exaggerated, but the General wishes you to make a careful examination of the case, and redress, as far as may be in your power, any wrong Moore may have sustained. He wishes you, further, to furnish the colonial secretary of Vancouver's Island with the results of your examination.

I am, sir, very respectfully, your obedient servant,

L. THOMAS,  
*Assistant Adjutant General.*

Lieutenant Colonel SILAS CASEY,  
*Officer Commanding at San Juan.*

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23 n.

HEADQUARTERS OF THE ARMY, U. S. PROPELLER MASSACHUSETTS,  
*Off Port Townsend, W. T., November 9, 1859.*

GENERAL: By direction of the General-in-chief I enclose for your information and guidance the following papers, viz:

1. Copies of the General-in-chief's communication to His Excellency Governor Douglas, dated the 5th and 9th instant.
2. A copy of Special Orders, dated the 5th instant.
3. A copy of my letter to Captain Hunt, dated the 9th instant.

These papers will show you to what extent the General has interfered in the affairs of the Department of Oregon, except that he has made free use of the United States propeller Massachusetts, on board of which vessel he made his headquarters.

Captain Hunt will be left on the island of San Juan, under your instructions of July 18, modified by my letter to him dated the 7th instant; but the General-in-chief wishes it to be remembered that the sovereignty of the island is still in dispute between the two governments, and, until definitively settled by them, that British subjects have equal rights with American citizens on the island.

Captain Fauntleroy represents that the Massachusetts leaks badly, and that repairs are necessary, which can better be done at San Francisco this winter. The General-in-chief concurs, but gives no orders on the subject.

I have the honor to be, very respectfully, your obedient servant,

L. THOMAS,

*Assistant Adjutant General.*

Brigadier General W. S. HARNKY,

*Commanding Department of Oregon, Fort Vancouver, W. T.*

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23 o.

HEADQUARTERS OF THE ARMY,  
*St. Helen's, Oregon, November 15, 1859.*

SIR: Intending at the first moment to urge that the two departments on the Pacific should be thrown back into one, and being aware of your preference for that having St. Louis as its headquarters, I have already suggested to you a change. Another motive has just occurred to me for renewing the subject.

I have no doubt that one of the preliminary demands which will be made by the British government upon ours, in connection with your occupation of the island of San Juan, will be your removal from your present command.

In such an event it might be a great relief to the President to find you, by your own act, no longer in that command.

I make the suggestion from public considerations solely, and have not received the slightest hint to that effect from Washington.

To take effect in conformity with your own wishes, I enclose herewith a conditional order to repair to St. Louis, Missouri, and assume the command of the Department of the West.

If you decline the order, and I give you leave to decline it, please throw it into the fire; or, otherwise, before setting out for the east, call your next in rank to you, and charge him with the command of the Department of Oregon.

We have been forced into this river by a defect in a boiler, and to take in a new supply of coal. I may not have time to hear in reply from you on this side of the continent, unless we arrive at San Francisco too late for the Panama steamer of the 20th instant, which we begin to fear.

I am, sir, very respectfully, your obedient servant,

WINFIELD SCOTT.

Brigadier General W. S. HARNEY,

*Commanding Department of Oregon, Fort Vancouver, W. T.*

23 p.

[Special Order No. —.]

HEADQUARTERS OF THE ARMY,  
*St. Helen's, Oregon, November 15, 1859.*

Brigadier General Harney will repair to St. Louis, Missouri, and assume command of the Department of the West. Colonel Wright, ninth infantry, or the next senior present, will be charged, until further orders, with the command of the Department of Oregon, and will be instructed to repair to Fort Vancouver.

By command of Lieutenant General Scott:

L. THOMAS,  
*Assistant Adjutant General.*

24. *General Harney to General Scott.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., November 17, 1859.*

SIR: I have the honor to acknowledge the receipt of a communication from the Headquarters of the Army, dated St. Helen's, Oregon, November 15, 1859, and signed by the General-in-chief, enclosing a conditional order for me to repair to St. Louis, Missouri, and assume the command of the Department of the West.

The General-in-chief is pleased to express himself in the following language in this communication, viz:

"I have no doubt that one of the preliminary demands which will be made by the British government upon ours, in connection with your occupation of the island of San Juan, will be your removal from your present command.

"In such event it might be a great relief to the President to find you, by your own act, no longer in that command."

The General-in-chief states this is his own opinion in the matter, as he has not received the slightest hint to that effect from Washington, and concludes by giving me the liberty of declining this order.

In reply to this communication of the General-in-chief, I desire to inform him that I am not disposed to comply with such an order. I do not believe the President of the United States will be embarrassed by any action of the British government in reference to San Juan Island; nor can I suppose the President would be pleased to see me relinquish this command in any manner that does not plainly indicate his intentions towards the public service.

I am, sir, very respectfully, your obedient servant,

WM. S. HARNEY,  
*Brigadier General Commanding.*

ASSISTANT ADJUTANT GENERAL,  
*Headquarters of the Army, New York City.*

## STATEMENT IN THE CASE OF WILLIAM MOORE.

*Colonel Casey to Colonial Secretary Young.*FORT STEILACOOM, W. T.,  
November 21, 1859.

SIR: In accordance with instructions from Lieutenant General Scott, I have the honor to enclose, for the information of Her Majesty's colonial government of Vancouver's Island, the enclosed statement in the case of William Moore, of Henry R. Crosbie, esq., a justice of the peace on the island of San Juan.

It is to be regretted that the merits of this case had not been more thoroughly investigated before being made the subject of a grave official communication to the Lieutenant General commanding the army of the United States. It certainly cannot claim the importance sought to be attached to it. It is by no means certain that Moore owed allegiance at the time to the Crown of Great Britain.

By the first paragraph of the copy of the affidavit enclosed to me, I find that he does not swear that he owed allegiance to that crown, but only that he was a *British-born subject*.

From the previous two years' history of the man, the presumption is strong that he owed allegiance to the United States of America.

In case, however, if allegiance was due the Crown of Great Britain, the treacherous conduct displayed by him, as set forth in the statement of Mr. Crosbie, did not, in my opinion, merit from the British government any very favorable consideration.

I have the honor to be, very respectfully, your obedient servant,

SILAS CASEY,

*Lieut. Col. 9th Inf., late commander U. S. forces on island of San Juan.*

W. A. G. YOUNG, Esq.,

*Acting Colonial Secretary, Vancouver's Island.*

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*Mr. Crosbie to Governor Gholson.\**

SAN JUAN ISLAND, W. T.  
November 30, 1859.

SIR: In answer to the complaint made by William Moore, of alleged injustice received at the hands of the civil authority of Washington Territory, and forwarded by Governor Douglas, on the ground that the complainant is a British subject, I have to state that some 16 months since this man was sick and destitute at Whatcom, and was taken care of by the authorities at that place at an expense to the county of nearly \$300. He then claimed to be an American citizen, and so far from abandoning that claim during the latter part of July and the earliest part of August, when there was serious apprehension of a collision, made himself extremely useful in obtaining and conveying information with regard to the English movements. It was on account of the services thus rendered that I requested Colonel Casey that he should have the privilege of stopping within the military reserve or confines of the camp for the purpose of selling his vegetable and other commodities, which request was granted on assurance being given that he would not sell any liquor to the soldiers. Shortly afterwards representations were made to me from all quarters—the camp, the Hudson's Bay Company employes, and the citizens—that Moore was selling large quantities of liquor, both to soldiers and Indians. On a complaint made to that effect a warrant was issued for his apprehension. He was convicted mainly on the evidence of his own partner. After trial he was remanded to the guard-house for sentence next day, at 12 o'clock, for safe keeping. His effects were taken in charge by the sheriff. It was entirely

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\* 36th Cong., 1st sess., Ho. Reps. Ex. Doc. No. 77, pp. 14-15.



optional with the prisoner to pay the fine of \$50 and costs, or to be subject to imprisonment for the usual number of days. He chose the former, and was discharged. The penalty amounted in all to \$65, and not \$75, as he has falsely sworn. On his discharge he expressed his extreme penitence, and showed its utter insincerity by engaging the very next day more extensively in the traffic than before, and I was again called upon to issue a warrant, to avoid the service of which he fled the island.

I have gone into details further than necessary, although the right of inquiry ceases from the fact that the man, to my own knowledge, has for the last two years claimed to be an American citizen, in order to show that the whole complaint was simply "a made-up case."

The "injustice" in this matter is evidently against the law and not the individual.

To those who have seen the intoxication prevalent amongst the Indians on the island for the last few months, and the great trouble and annoyance that has arisen entirely from that cause, the complaint must seem more than an absurdity, and I cannot refrain from expressing my utter astonishment that Governor Douglas should have forwarded it, the more so from the fact that there was an English magistrate on the island, Major de Courcy; in addition there were also Captain Prevost, commanding H. B. M. ship *Satellite*, and Mr. Griffin, the agent of the Hudson's Bay Company, either of whom could have furnished a true version of the affair; indeed the British magistrate was the source from whence this complaint should have originated, as he was placed on the island for the avowed purpose of seeing that the rights of British subjects were not infringed upon.

I take pleasure here in stating that, so far from captiously endeavoring to thwart my efforts in preserving quiet and order, Major De Courcy has done whatever lay in his power to assist me. When a similar complaint was made to him by a person engaged in the same trade as Moore, he replied that "he came to the island for the purpose of seeing the laws enforced, and not to assist in breaking them by throwing a shield around those engaged in illegal traffic."

In reviewing the transaction, all that I can blame myself with is the mistaken leniency of not inflicting a penalty more in proportion to the mischief created.

Very respectfully, your obedient servant,

HENRY R. CROSBIE.

His Excellency R. D. GHOLSON,  
*Governor of Washington Territory.*

LETTER OF GENERAL HARNEY TO THE ADJUTANT GENERAL U. S. ARMY, ENCLOSING RESOLUTIONS OF THE COUNCIL OF WASHINGTON TERRITORY.\*

*General Harney to the Adjutant General.*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., January 24, 1860.*

COLONEL: I have the honor to enclose, for the information of the War Department, a certified copy of a resolution relative to San Juan Island, which has passed unanimously the Legislative Assembly of Washington Territory.

I am, Colonel, very respectfully, your obedient servant,

W. S. HARNEY,  
*Brigadier General Commanding.*

Colonel S. COOPER,  
*Adjutant General, Washington City, D. C.*

\* H. Ex. Doc. 65, 36th Cong., 1st sess., pp. 81-83.

*Council of Washington Territory—7th Session.*

Whereas it has come to our knowledge that attempts are making, or will be made, to merge the Military Department of Oregon into the Department of the Pacific, and in case this is not effected, to cause Brigadier General William S. Harney to be removed from command; and

Whereas we believe that said Department was established for good and sufficient reasons, which reasons still exist in as full force as when said Department was established, the interior of our Territory being still occupied by numerous tribes of Indians, only restrained from hostilities by the presence of large bodies of troops, and our frontier being still liable to murderous incursions of powerful and savage hordes of Indians living upon a foreign soil; and

Whereas experience has shown that, in order that these troops may act promptly and efficiently for the protection of our Territory, it is necessary that the Headquarters of the Department should be of convenient access, which would not be the case were it removed to the State of California; and

Whereas General Harney, in all his official acts while in command of this Military Department, by protecting us from Indians, domestic and foreign; securing and maintaining peace, by revoking those unlawful military orders under which an attempt was made to exclude our citizens from portions of our Territory, which, under the laws, were open to settlement; opening communications between different portions of the Territory; protecting emigration by placing troops on the island of San Juan, an island which is as unquestionably American soil as any other portion of our Territory; for the protection of American settlers against foreign Indians, and against attempted acts of foreign jurisdiction, has deserved and secured the entire confidence of the people of this Territory: Therefore be it

*Resolved*, That we, the legislative assembly of the Territory of Washington, earnestly and respectfully protest against any change by which the Military Department of Oregon shall be merged into any other department, and against its headquarters being removed.

*Resolved*, That we respectfully and earnestly solicit the President of the United States to continue the present able, experienced, and prudent officer (Brigadier General Harney) in command of said Military Department.

*Resolved*, That we firmly believe General Harney has acted in a prudent and proper manner in placing a military force on the island of San Juan for the protection of American citizens from foreign savages and wanton aggressions of foreign officials:

1. Because the island is clearly ours under a fair construction of the treaty.
2. Because said island is within the Military Department of Oregon, it having been, by an act passed in 1854, at the first session of the legislative assembly of this Territory, made a part of the organized county of Whatcom, which act was duly submitted to the Congress of the United States, as by the organic act is required, and has not to this day been disapproved, and is still the law of the land; and
3. Because, at the time, the circumstances of the case required that a military force should be placed there.

*Resolved*, That General Harney, having rightfully placed a military force upon said island, would have been recreant to his trust had he failed to support it with all the power at his command when it was threatened with an attack by a foreign nation.

*Resolved*, That having the fullest confidence in our title to the island, our right should be maintained at all hazard.

*Resolved*, That we most respectfully ask the proper authorities to revoke the odious military order placing San Juan Island (a portion of Whatcom County) under military rule.

*Resolved*, That we have the fullest confidence that the President of the United States will act justly and firmly in the premises, and that American rights will be fully vindicated by him.

*Resolved*, That copies of these resolutions, duly signed and certified, be sent to our delegate in Congress, to be by him submitted to the President of the United States; and also to General W. S. Harney.

We hereby certify that the foregoing resolutions is a true copy of the original, *unanimously* passed by the Legislative Assembly of Washington Territory.

JOHN D. BILES,

*Speaker of the House of Representatives.*

H. J. G. MOXON,

*President of the Council.*

JANUARY 7, 1860.

[Extract from H. Ex. Doc. No. 98, 36th Congress, 1st session, pp. 15-27.]\*

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, Washington Territory, April 11, 1860.*

SIR: I have the honor to enclose, for the information of the General-in-chief, a copy of a communication from Captain L. C. Hunt, fourth infantry, commanding on San Juan Island, forwarding a copy of the orders of Rear-Admiral Baynes, commanding Her Britannic Majesty's naval forces in the Pacific, to the officer commanding a detachment of royal marines landed on San Juan by the orders of the Admiral.

I have the honor, also, to enclose a copy of a communication from certain citizens on San Juan, complaining of Captain Hunt's conduct towards them. The Captain has not reported his acts to this office, and the fact of his being inimical to a portion of the inhabitants of the island, under present circumstances, has decided me to replace Captain Pickett's company upon the island, with such instructions as are necessary to meet the requirements of the service, a copy of which is also enclosed.

In consequence of the expense attending the maintenance of the position at Fort Townsend, and its want of usefulness in a military point, I have directed the company there to be withdrawn to Fort Steilacoom.

I am, sir, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General, Commanding.*

The ASSISTANT ADJUTANT GENERAL,

*Headquarters of the Army, New York City.*

CAMP PICKETT, SAN JUAN ISLAND,

*March 27, 1860.*

SIR: I have the honor to state, for the information of the Commanding General of the Department, that a detachment of British marines has been landed upon the north end of the island, conformably to the proposition of Lieutenant General Scott, for establishing a joint military occupation.

From the tenor of my instructions and the papers furnished for my guidance, I consider it my duty simply to announce the fact, and await the orders of the Commanding General of the Department upon the subject.

\* See letter of Mr. Stanton to Mr. Seward, page 268.

I enclose herewith a copy of the communication of Rear Admiral Baynes, accompanied by an extract from the orders furnished by Captain Bazalgette, commanding the detachment. I beg to call the attention of the Commanding General to the fact that while the British commanding officer has full power, plain and definite instructions by which my complaints to him of British subjects would be promptly acted upon, I am without such instructions as regards his complaints, (and liquor dealing will be very certain to produce them) General Scott's instructions to me seem to acknowledge (to a certain extent) territorial jurisdiction, but in all probability there will be no magistrate upon the island, (the present magistrate, Mr. Newsom, has just resigned,) and even if there should be, juries will find verdicts for the offenders, implying independence of Whatcom County jurisdiction. This has been shown lately in the cases of two persons tried for liquor dealing, unlicensed. The fact is that a great many of the persons upon the island are vagabonds, of no particular nationality, or of any, as it may suit their purpose, and it seems a great scandal that no power, civil or military, should be operative to keep them in order.

It certainly seems that Whatcom County jurisdiction should apply fully (to American citizens) or else that which I am quite sure the *bona fide* settlers and well-disposed citizens would prefer, military authority, so long as the present anomalous condition of affairs shall exist.

Under all these circumstances of the case, and as the best solution of future difficulties, I respectfully request that the Commanding General would furnish me with instructions analogous to those possessed by Captain Bazalgette.

I am, sir, very respectfully, your obedient servant,

L. C. HUNT,

*Captain 4th Infantry, Commanding.*

Captain ALFRED PLEASANTON,

*2d Dragoons, A. A. A. General, Fort Vancouver, W. T.*

HER BRITANNIC MAJESTY'S SHIP GANGES,

*In Esquimalt Harbor, March 20, 1860.*

SIR: I have the honor to inform you that a detachment of royal marines, with their appropriate arms, equivalent in number to the troops of the United States under your command, will be disembarked on the north point of the island of San Juan, for the purpose of establishing a joint military occupation, agreeably to the proposition of Lieutenant General Scott.

The annexed extract from the orders I have given to Captain Bazalgette, the officer commanding, I beg to furnish for your information.

I have the honor to be, sir, your obedient servant,

R. LAMBERT BAYNES,

*Rear Admiral and Commander-in-Chief*

*Of her Britannic Majesty's Naval Forces in the Pacific.*

Captain HUNT,

*Commanding United States troops, San Juan Island.*

[Extract.]

The object of placing you there is for the protection of British interests, and to form a joint military occupation with the troops of the United States.

As the sovereignty of the island is still in dispute between the two governments, you will, on no account, interfere with the citizens of the United States; but, should any offence be committed by such citizens, which you may think it advisable to notice, you will send a report of it to Captain Hunt, or officer commanding the United States troops.

American citizens have equal rights with British subjects on the island.

Ex. Doc. 29—14

Should the officer commanding United States troops bring to your notice offences committed by any of Her Britannic Majesty's subjects, you will use your best judgment in dealing with the case; and I authorize you, if you deem it necessary, to send them off the island by the first opportunity.

If any doubts arise as to the nationality of an offender, you will not act in the case before you have consulted with the United States commanding officer, and not even then unless your opinions coincide.

You will place yourself in frank and free communication with the commanding officer of the United States troops, bearing in mind how essential it is for the public service that the most perfect and cordial understanding should exist between you, which I have every reason to feel assured you will, at all times, find Captain Hunt ready and anxious to maintain.

ROBERT LAMBERT BAYNES,  
*Rear Admiral, and Commander-in-Chief.*

Captain GEORGE BAZALGETTE,  
*Royal Marines, Commanding Detachment on the Island of San Juan.*

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SAN JUAN ISLAND, *March 7, 1860.*

GENERAL: We, the undersigned citizens of this island, beg respectfully to call your attention to the gross and ungentlemanly conduct of Captain Hunt, the officer in command of this station. We ask if he is justified as a military man to infringe on the rights and privileges of American citizens? Is he justified in stopping trade, and endeavoring to drive the inhabitants from the island? Such conduct he is guilty of, and, unless immediate steps are taken to prevent any further outrage on his part, not only the service to which he belongs, but the dignity of the country, who boasts her liberty of the subject, will be compromised. By his recent conduct the whole of the inhabitants of this island have been insulted, their position as tradesmen and citizens lowered, and he himself become an object of contempt. We, therefore, respectfully ask your attention to this appeal, and trust that either a more sane and proper officer may replace the one now in command, or steps may be taken to prevent any further inquisitorial and unjust interference on his part.

With profound respect, we beg to subscribe ourselves, General, your most obedient servants,

D. W. DARLING.  
J. S. BOWKER.  
B. M. KENNELLY.  
N. BAKER.  
FRANK CHANDLER.  
DENNIS MCCARTHY.  
GEORGE BORDEW.  
JOHN SMYTH.  
JAMES FRAZER.

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HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., April 10, 1860.*

CAPTAIN: You will perceive by Special Orders, No. 41, of this date, a copy of which is enclosed, that the General Commanding has replaced you in command of your company on San Juan Island.

For your information in this position you will receive, as accompanying papers, the correspondence and instructions of Lieutenant General Scott with reference to San Juan Island, with an extract from the orders of Rear-Admiral Baynes, commanding Her Britannic Majesty's naval forces in the Pacific, to Captain George Bazalgette, of the royal marines, commanding a detachment of royal marines landed on San Juan Island by the consent of General Scott.

These orders of Admiral Baynes communicate to his officer that he is placed on the island for the protection of British interests, and to form a joint military occupation with the troops of the United States.

To meet these orders of the Admiral, and to remove any misconception on the part of the British authorities as to your duties, I am directed to impart to you the following explanations and requirements of the General Commanding, a copy of which you will furnish Captain Bazalgette for the information of Rear-Admiral Baynes.

*First.* Lieutenant General Scott has left no orders or instructions with the General Commanding to grant a joint military occupation of San Juan Island with British troops; neither has any authority been delegated by the government of the United States to the General to offer or accept such occupation of that island. The offer made by General Scott, when in command here, was not accepted by Governor Douglas at the time, and consequently concluded that transaction. No arrangement has been made since to renew it, within the knowledge of the General Commanding.

*Second.* The British authorities having submitted the assurance to General Scott that no attempt would be made by them to dislodge by force the United States troops on San Juan Island, they were permitted to land troops for similar purposes to which your command was designed in the original orders conveyed to you in July last, viz., the protection of our citizens from Indians, both native and foreign. In connection with this service, the General Commanding takes occasion to present you to Admiral Baynes and the officers with whom you will be brought in contact, as an officer possessing his highest confidence, that nothing will be omitted in maintaining a frank and generous intercourse in all matters coming within your powers to establish a practical solution of the present misunderstanding, which shall prove honorable and satisfactory to all parties, until a final settlement is attained by the governments.

*Third.* Under the organic act of the Congress of the United States for the establishment of the territorial government of Washington, the first legislative assembly in 1854 passed an act including the island of San Juan as a part of Whatcom County. This act was duly submitted to Congress, and has not been disapproved; it is, therefore, the law of the land. You will be obliged, consequently, to acknowledge and respect the civil jurisdiction of Washington Territory in the discharge of your duties on San Juan, and the General Commanding is satisfied that any attempt of the British commander to ignore this right of the Territory will be followed by deplorable results, out of his power to prevent or to control. The General Commanding will inform the governor of Washington Territory that you are directed to communicate with the civil officer on the island in the investigation of all cases requiring his attention. In the event of any British interests being involved, you will notify the officer placed there by Admiral Baynes to enable him to propose some arrangement satisfactory to his instructions, as well as those of the civil officer. Let it be understood in case of disagreement of these parties that no action is to be taken until the case has been referred to Admiral Baynes and the governor of Washington Territory respectively.

These suggestions will be acceptable to the conditions which govern the territorial authorities of Washington, while satisfying the obligations of the military service to their own as well as the civil laws of the country, and it is fair to presume they will be adopted by Admiral Baynes, since the tenor of his instructions to Captain Bazalgette is sufficiently liberal to justify this conclusion.

I remain, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain 2d Dragoons, A. A. Adj. Gen'l.*

Captain GEORGE A. PICKETT,

*Commanding Company "D," 9th Infantry,*

*Fort Bellingham, Puget's Sound, W. T.*



[Special Orders—No. 41.]

## HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., April 10, 1860.*

The following disposition of troops on Puget's Sound will take effect without delay :

1. Company D, ninth infantry, Captain George Pickett, will replace company C, fourth infantry, at Camp Pickett, San Juan Island.

2. Company C, fourth infantry, on being relieved, will proceed to Fort Steilacoom, to which post it is assigned for duty.

\* \* \* \* \*

II.—The steamer Massachusetts will be used in the execution of these orders, under such special instructions as will be given.

By order of General Harney :

A. PLEASANTON,

*Captain Second Dragoons, Acting Assistant Adjutant General.*

## HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., April 10, 1860.*

GOVERNOR : I have the honor to enclose an extract of the orders of Rear Admiral Baynes, commanding Her Britannic Majesty's naval forces on the Pacific, to the officer in command of a detachment of royal marines, landed on San Juan Island ; also a copy of my orders replacing Captain Pickett's company on San Juan, with his instructions in that position.

These papers will explain to you the state of affairs at San Juan, and I beg leave to say, I have the fullest assurances that your action in the premises will be of the most satisfactory character in support of the different interests depending upon it.

I am, Governor, very respectfully, your obedient servant,

W. S. HARNEY,

*Brigadier General Commanding.*

His Excellency R. D. GHOLSON,

*Governor of Washington Territory, Olympia, W. T.*

*Remarks of the General-in-Chief.*

These papers are important :

1. Brigadier General Harney has substituted Captain Pickett for Captain Hunt in the command at the San Juan Island—reversing my act. My reason for substituting Hunt for Pickett was this : Pickett, on landing on the island, in July, 1859, under the orders of Harney, issued a proclamation declaring the island to belong to the United States, and containing (I speak from memory) other points or language extremely offensive (as I learned) to the British authorities ; and, as my mission was *one of peace*, I thought it my duty to substitute Hunt for Pickett after I had named Pickett for the command. Hunt (as our officers informed me) was remarkable for firmness, discretion and courtesy. (The Secretary of State can, probably, confirm this character of Hunt.)

2. It will be seen by Brigadier General Harney's instructions to Pickett, of the last month (herewith,) that Harney considers San Juan Island *as a part of Washington Territory*, and Pickett is directed "to acknowledge and respect" the *authority of that Territory*. If this does not lead to a collision of arms, it

will again be due to the forbearance of the British authorities; for I found both Brigadier General Harney and Captain Pickett proud of their *conquest* of the island, and quite jealous of any interference therewith on the part of higher authority. I beg it may further be remembered that I intimated a doubt to the War Department whether Brigadier General Harney would carry out my pacific arrangement, respecting the occupation of the island, with good faith, or even with courtesy, and hence one of my reasons for wishing to relieve him from his command.

Respectfully submitted to the Secretary of War.

WINFIELD SCOTT.

MAY 14, 1860.

WAR DEPARTMENT, *June 8, 1860.*

The Adjutant General will order Brigadier General Harney to repair to Washington city without delay.

JOHN B. FLOYD,  
*Secretary of War.*

[Special Orders—No. 115.]

WAR DEPARTMENT,  
*Adjutant General's Office, Washington, June 8, 1860.*

Brigadier General William S. Harney, United States army, will, on the receipt hereof, turn over the command of the Department of Oregon to the officer next in rank in that Department, and repair without delay to Washington city, and report in person to the Secretary of War.

By order of the Secretary of War:

S. COOPER,  
*Adjutant General.*

CAMP PICKETT, SAN JUAN ISLAND,  
*April 24, 1860.*

MY DEAR SIR: I drop a line in hopes that it may go by the mail steamer, now in the Sound, to mention the receipt of orders from Department Headquarters breaking up Fort Townsend and Fort Bellingham, and sending Captain Pickett to replace me, who will return to Fort Steilacoom. No cause is assigned for this disturbance of the arrangements made by the General-in-chief, and as the Department order comes simultaneously with the arrival of the War Department order abandoning Fort Bellingham, I presume the movement has been intended for a long time past, and the War Department order procured for the purpose of carrying it out.

In the anomalous situation of the island, with the jurisdiction undetermined, and my orders general in their character, my command has been a delicate and difficult one, and it has been, in general, my aim to avoid any pretext for fault-finding to those who I knew were eagerly seeking it. I have not been altogether successful, as will be seen by the correspondence enclosed, which I forward as giving a history, as it were, of matters upon the island, and as showing the animus of Department Headquarters towards me. I have no doubt

however, that the replacing of Captain Pickett's company upon the island is quite independent of complaints of me, that it has long been contemplated.

The order comes at a most inconvenient time; gardens just planted; while four companies are sent to a post having accommodations for three only, and excellent quarters left vacant at Fort Townsend.

I remain, sir, very respectfully, your obedient servant,

L. C. HUNT,

*Captain Fourth Infantry Commanding.*

Major E. D. KEYES,

*Military Secretary.*

*Indorsement of the General-in-Chief.*

I deem it my duty, in defence of a gallant and excellent officer, (Captain Hunt,) most unjustly accused by Brigadier General Harney, to make this letter and its five enclosures public. It will be seen that Captain Hunt's defence is most triumphant.

Respectfully submitted to the Secretary of War.

WINFIELD SCOTT.

JUNE 14, 1860.

HEADQUARTERS DEPARTMENT OF OREGON,

*Fort Vancouver, W. T., March 21, 1860.*

CAPTAIN: The enclosed copy of a communication from citizens of San Juan Island to the General Commanding is transmitted for your information, and I am instructed to say you will report without delay to these Headquarters whatever action you have taken against the citizens of San Juan Island.

You are directed by the General Commanding not to interfere with the trade of our citizens in any way except the one prohibition of selling liquor to Indians, nor will you throw any impediment in the way of persons coming to or leaving the island.

You will make a full and complete report to these Headquarters of all your actions affecting citizens up to this time, and hereafter you will take no steps regarding them without reporting the same immediately to this office.

I am, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain Second Dragoons, A. A. A. General.*

Captain L. C. HUNT,

*Fourth Infantry, Commanding Camp Pickett,*

*San Juan Island, Washington Territory.*

SAN JUAN ISLAND, *March 7, 1860.*

GENERAL: We, the undersigned, citizens of this island, beg respectfully to call your attention to the gross and ungentlemanly conduct of Captain Hunt, the officer in command of this station. We ask if he is justified as a military man to infringe on the rights and privileges of American citizens? Is he justified in stopping trade and endeavoring to drive the inhabitants from the island? Such conduct he is guilty of; and, unless immediate steps are taken to prevent any further outrage on his part, not only the service to which he belongs, but the dignity of the country who boasts her liberty of the subject, will be compromised. By his recent conduct the whole of the inhabitants of

this island have been insulted ; their position as tradesmen and citizens lowered ; and he himself become an object of contempt. We, therefore, respectfully ask your attention to this appeal, and trust that either a more sane and proper officer may replace the one now in command, or steps may be taken to prevent any further inquisitorial and unjust interference on his part.

With profound respect, we beg to subscribe ourselves, General, your obedient servants,

D. W. DARLING.  
J. S. BOWKER,  
R. H. KENNELLY.  
N. BAKER.  
MILBREY DAY.  
FRANK CHANDLER.  
DENNIS MCCARTHY.  
GEORGE BORDEW.  
JOHN SMYTH.  
JAMES FRAZER.

The foregoing was written by a young Englishman from Victoria, whose knowledge of drugs induced me to place him in the hospital, with the view of enlisting him, perhaps, as hospital steward. He proved trifling and tricky, and was sent off.

L. C. HUNT, *Captain, &c.*

CAMP PICKETT, SAN JUAN ISLAND,  
*March 30, 1860.*

CAPTAIN : I have the honor to acknowledge the receipt of your communication of the 21st instant, enclosing another which purports to come from citizens of San Juan Island complaining of my conduct as commanding officer on the island.

I regret being obliged to notice, in any manner, a statement couched in such language, and conveying charges so incredible. It is unnecessary, I am sure, for me to deny that I have interfered with "trade" or "tradesmen" beyond the fact of taking action *in behalf* of the citizens of San Juan Island against a number of transient persons, illicit liquor dealers, who had been complained of in the strongest terms by the real settlers, who lived by dealing poison to my men, and who all, without exception, I believe, have no other stake upon the island than that arising from their ill-gotten gains. I recognize the names of three individuals (and their creatures) who are indignant that I should have interfered with their "trade," however illegal.

For the information of the Commanding General, and to give him the fullest proofs of the embarrassing position I occupy, unless I choose to shut my eyes to the evils existing upon the island and attempt no remedy, I beg to forward the statement of Mr. Newsom, late magistrate on the island, as also a petition from the bona fide settlers. In the present anomalous position of the island all sorts of opinions are held by even the residents as to jurisdiction and authority. They are opposed to Whatcom County jurisdiction in whole or in part, alleging certain grievances. Many of the citizens think that until the question of title is settled the island is properly under military jurisdiction, and would be glad to have it so declared.

I understood from Judge Fitzhugh last December that, in his opinion, I had full power to act against evil-doers in general ; and "if I found difficulty in that, to arrest them and send them over to him." In the absence of any fixed and definite jurisdiction, opinions being various, and my instructions general in their character, I have been obliged to act as cases arose, according to circumstances and my judgment.

At the suggestion and by the advice of Mr. Crosbie, then magistrate, to whom I applied for action against the nuisance of two whiskey shanties in the immediate neighborhood of my camp, I published an order on the 16th of December declaring the military reserve to embrace an area of four square miles, and directed Frank Chandler and his partner, Dennis McCarthy, and Frazer, (understood since to be a British subject,) to remove their respective nuisances, giving them the privilege of joining their liquor-dealing brethren in "town," which they promptly accepted. The same order forbade, under penalty of prosecution, the trading or having in possession soldiers' clothing, a practice which had been carried to a great extent by the liquor dealers, a special shop at Victoria for their sale having been kept supplied. Subsequently, James Frazer, who had been permitted to occupy his shanty on the promise of abstaining from liquor traffic, was detected in lying, a number of bottles of liquor destroyed which he had kept concealed beneath his flooring, whereupon he again retired to the "town." Drunkenness increasing, I determined that the authors of the mischief should not go on with impunity. I preferred to make use of civil action when possible rather than take the shorter method of acting upon my "reserved" rights, and brought suit against Bowker, Chandler, and Frazer. The first two only were tried, and the jury, in the face of the facts, acquitted. A German Jew, whose establishment was the greatest nuisance of all, who had repeatedly declared his intention of a speedy removal, I made an example of by directing him to remove his liquors off the "reserve." It so happened that the order was simultaneous with the arrival of the Jew's boat for the purpose of carrying out his intention of removing his stock altogether from the island, and this coincidence, I presume, has suggested the charge of "driving" the inhabitants from the island. Finally, Mr. Higgins, the only merchant (i. e., the only person who deals in dry goods, &c.) in the "town," who had frequently expressed a fear of his life being attempted by the vile rabble who surrounded him, applied to me for assistance. Many circumstances went to prove that his neighbor, a boatman, Kearney by name, and, as has since appeared, a British subject, had robbed him during his absence of a large quantity of potatoes. Several robberies had occurred about that time; there was no magistrate upon the island, and with some reluctance I yielded to the appeals of Mr. Higgins, and sent a file of the guard to accompany Mr. Higgins in the search for his potatoes. This is probably the "inquisitorial" action referred to, but it was for Kearney to complain, if any one. On the contrary, he expressed his perfect willingness that the military should search his cabin.

In conclusion, I may be permitted to add, that I congratulate myself upon having won the confidence and best wishes of all the respectable inhabitants of the island.

I am, sir, very respectfully, your obedient servant,

L. C. HUNT,

*Captain Fourth Infantry, Commanding.*

Captain ALFRED PLEASANTON,

*Acting Assistant Adjutant General, Fort Vancouver, W. T.*

SIR: Your communication to Captain Hunt, dated March 21, has been shown to me, and I have been required to make a brief statement concerning it.

A portion of the parties who signed the communication to you, dated March 7, 1860, reside in the town of San Juan, and are engaged in the retail traffic of liquors; the balance are itinerant boatmen, &c.

Bowker, Chandler and Frazer have each been arrested on warrants issued by

myself, (as a justice of the peace of Whatcom County,) for retailing liquors without a license, and notwithstanding the proofs were positive as to the facts, the jury in each case brought in a verdict of "not guilty," thereby showing a determination to resist the execution of the revenue laws of Washington Territory on the island. The matter has been referred to the county commissioner of Whatcom County.

Justices of the peace have not the power to summarily punish offenders against this portion of the revenue laws.

The general feeling of the actual settlers of the island (numbering about fifty, a majority of whom are citizens of the United States) appears to be in favor of having the laws of Washington Territory extended over the island in all cases relating to life and property, but that no revenue, either federal or municipal, should be collected from any resident of the island; and they consider a license tax municipal revenue.

Under the existing state of affairs on the island, it is necessary that summary power should be exercised by some officer representing the United States.

There is at present no civil officer upon the island, I having resigned the position which I held.

Very respectfully, your obedient servant,

D. F. NEWSOM,  
*Late Magistrate.*

General WM. S. HARNEY.

SAN JUAN ISLAND, *March* 30, 1860.

SIR: We, the undersigned, American citizens, actual settlers upon the island, and tillers of the soil, respectfully represent, that the peace and quiet of the island demand that a stop should be put to the unlicensed and uncontrolled liquor dealing carried on upon the island; that there is no prospect, for various reasons, that any magistrate will long continue to exercise his functions amongst us; that by the result of two recent jury trials it appears that no check exists on the part of the civil power.

Having full confidence in the judgment and discretion of Captain Hunt, the military commander upon the island, we respectfully request that you will give him such instructions as may seem proper to you, to the end that the military power may be brought to bear promptly for the suppression of this great nuisance in our midst.

We have the honor to be, with high respect and esteem,

J. EVERETT HEWETT.

DANIEL W. OAKES.

D. F. NEWSOM, *Late Magistrate,*  
And thirty others.

General WM. S. HARNEY,

*Commanding the Department of Oregon.*



## No. 4.

*Lord Lyons to Mr. Cass.*WASHINGTON, *May* 12, 1859.

SIR: Her Majesty's government have received information that attempts have been recently made by citizens of the United States to establish themselves on the Island of San Juan, in the Gulf of Georgia. It appears that this is not the first time that similar practices have been resorted to by the citizens of the United States, and representations on the subject have more than once been addressed by this mission to the cabinet of Washington.

I have to-day received instructions from Her Majesty's principal secretary of state for foreign affairs to lose no time in calling the attention of the government of the United States to this matter, and in requesting that any such unauthorized proceedings on the part of American citizens may be discountenanced by the neighboring authorities of the United States.

The question as to whether the island of San Juan shall ultimately appertain to Great Britain or to the United States depends upon the solution to be arrived at in regard to the boundary line between their respective territories, under the Oregon treaty of 1846. Commissioners have been appointed by the two parties to ascertain how that line is to be run in conformity with the treaty. These commissioners have not been able to come to an agreement on the subject. It therefore remains for the two governments to enter into direct communication with each other for the settlement of a question which very closely affects the good understanding between them.

Her Majesty's government have deferred taking any step, consequent on the disagreement of the commissioners, until they should be in possession of the results of a survey, which they thought it necessary to institute, of the various channels into which the lower part of the Gulf of Georgia is divided by the numerous islands with which it is studded.

They have now received the report of the British surveyor, and I am directed to acquaint the government of the United States that instructions will shortly be sent to me to communicate with them in the hope of arriving at a satisfactory settlement on the subject. And I am desired to add, that Her Majesty's government are sure that the Cabinet at Washington would regret as much as themselves that any local collision should arise in the interval which would tend to embitter a discussion which might otherwise be conducted with cordiality and good will. Her Majesty's government trust, therefore, that citizens of the United States will be restrained, as far as the institutions of this government admit of their being so, from attempts to settle by unauthorized acts of violence a question which there will probably be little difficulty in arranging by amicable communication between the two governments.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &amp;c., &amp;c., &amp;c.

## No. 5.

*Lord Russell to Lord Lyons.*

No. 42.]

FOREIGN OFFICE, *August* 24, 1859.

MY LORD: Your lordship was apprised by my predecessor in his despatch No. 30, of the 28th of April, that instructions would shortly be sent to you with

regard to the boundary between Her Majesty's possessions and those of the United States on the northwest coast of North America as fixed by the treaty of 1846. Circumstances prevented that intention from being acted upon previously to the change of government, and it is now my duty to convey to you those instructions.

Your lordship is no doubt aware that the British and American commissioners appointed in 1856 to survey and mark out the boundary differed in opinion as to that portion of it lying between the Gulf of Georgia and Fuca's Straits. As far, indeed, as there is only one channel separating the continent from Vancouver's Island, no doubt can be entertained as to the true boundary, which, according to the treaty, runs from the 49th parallel of latitude down the centre of the Gulf of Georgia to its southernmost point, and no question can arise as to that portion of the boundary which is to be drawn through the centre of the Straits of Fuca to the ocean. But with regard to the intermediate portion of the boundary the commissioners differed in opinion, the British commissioner conceiving that the line should be traced through the channel known as Rosario Straits, while his American colleague maintained that it must be sought for in the Haro Channel. The commissioners defended their respective positions in a correspondence of some length, marked by much ability on both sides. Neither commissioner, however, was prepared to defer to the arguments of the other. The American commissioner rejected an offer to compromise the matter subsequently made to him by his English colleague, and the commissioners, considering that under these circumstances it was useless to continue their correspondence, signed, on the 3d of December, 1857, a minute recording their disagreement and adjourning their proceedings until circumstances should render it necessary for them to meet again.

It is much to be regretted that there was not annexed to the treaty of 1846 any map or chart by which the true meaning of the expressions made use of in the first article of that treaty could have been authoritatively ascertained. The British commissioner was clearly of opinion that both the boundary intended by the plenipotentiaries who negotiated the treaty of 1846, and also the channel spoken of in the treaty, is the channel known as Rosario Straits, and Her Majesty's government fully share that opinion; but inasmuch as it is now proved that there are several channels connecting the Gulf of Georgia with Fuca's Straits, that circumstance afforded to the American commissioner the means of contesting the view of the case taken by his English colleague, and the result has unfortunately been, that a question which Her Majesty's government had hoped was finally set at rest by the treaty of 1846, remains still a subject of discussion.

It may be convenient that I should here pass in review a few of the arguments which led Her Majesty's government to the well-founded belief, that the boundary between the British and American possessions, as fixed by the treaty of 1846, is the Rosario, and not the Haro channel.

The words of the first article of that treaty are as follows :

From the point on the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the United States terminates, the line of boundary between the territories of Her Britannic Majesty and those of the United States shall be continued westward along the said 49th parallel of north latitude to the middle of the channel, which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean; provided, however, that the navigation of the whole of the said channel and straits, south of the 49th parallel of north latitude, remain free and open to both parties.

The treaty, therefore, in dealing with the space separating Vancouver's Island from the continent, speaks of two divisions only, viz: the "channel" and the "straits"—the channel being that commencing in the Gulf of Georgia, and those straits being the Straits of Fuca. The information acquired by subsequent surveys shows that it might have been more correct to have divided that space into three portions, viz: the Gulf of Georgia, the Straits of Fuca,

and the intervening channel or channels by which the Gulf of Georgia and the Straits of Fuca are connected. A glance, however, at Vancouver's chart, which is the only map that the British government, and, it is believed, the plenipotentiaries of the two governments had before them, at the time when the treaty of 1846 was negotiated, will suffice to show why the treaty speaks only of the "channel" and the "straits." Vancouver's chart depicts the channel through which he sailed as being an uninterrupted water line, passing in a southerly direction through the Gulf of Georgia, and the passage known by his name, but since called Rosario Straits, into the Straits of Fuca; and on the assumption suggested by a study of that map, that the channel discovered by Vancouver was the main artery connecting the Gulf of Georgia with Fuca's Straits—there was no necessity for mentioning the channel which was to serve as the boundary between the British and the American possessions, otherwise than in the terms used in the treaty.

For the same reason the treaty designates as "southerly" the direction which the boundary line is to take, from the westernmost point of the 49th parallel of latitude, considered with reference to Vancouver's chart. The term "southerly" is a sufficiently accurate description of a boundary line to be traced through the centre of the Gulf of Georgia, and of the passage navigated by Vancouver into the Straits of Fuca.

But if the boundary line had been intended to pass through the Haro channel, the treaty must have been otherwise worded. The Haro channel could not have been regarded or described as a portion of the channel commencing with the Gulf of Georgia, for it is neither the channel discovered by Vancouver, nor is it in regard to its general configuration a continuation in a southerly direction of the Gulf of Georgia. Moreover, it was not at that time known, at all events, by Her Majesty's government to be navigable for shipping; but, on the contrary, it was supposed to be a dangerous, if not an unnavigable strait.

The Gulf of Georgia extends as far south as the latitude of Orcas and Lummi islands; consequently the boundary line between the British provinces and those of the United States, which, in accordance with the clearly expressed words of the treaty, runs down the centre of that gulf, must, if it is to be diverted from the southernmost point of that gulf into the Haro channel, take for some distance, not a southerly, but a westerly direction, describing for that purpose an acute angle before the southerly course spoken of in the treaty could be resumed. Consequently, if the plenipotentiaries had intended that the boundary line should pass through the Haro channel, they would undoubtedly have specified that channel by name, in order to distinguish it from *the channel*—that is to say, the channel used by Vancouver—the channel, namely, which was the continuation of the Gulf of Georgia; and they would also have added some modified qualification of the word southerly, from which it may be inferred that the boundary channel was intended to be one contiguous to the main land.

Another argument may be adduced in support of the view taken by the British commissioner, from the fact that the Canal de Haro, so far from being a continuation of the channel through the Gulf of Georgia, is rather a distinct and independent channel running parallel to that gulf, and having its commencement in the straits separating Saturna and the other islands in that quarter from Vancouver's Island.

But all these points were so ably argued by Captain Prevost, the British commissioner, that Her Majesty's government do not think it necessary to restate them in this despatch. They think it sufficient to refer to his reports, and to state in general terms their conviction; that, whereas the channel through Rosario Straits does, in all essential points, answer to the plain meaning and intention of the treaty, the Haro channel does not do so.

The commissioner of the United States rested his view of the interpretation to be given to the first article of the treaty mainly on the expression made use

of by Mr. McLane, the American minister at this court in 1846, in reporting to his government the terms of arrangement which he thought the British government would probably offer, and on the language employed by Mr. Benton in the Senate when the treaty came under discussion before that body. It appears that both Mr. McLane and Mr. Benton indicated the Canal de Haro; Mr. McLane as that which he thought the British government would offer as the boundary line; Mr. Benton as that which the government of the United States had understood as the boundary.

Her Majesty's government have not failed to consider, with the attention it deserves, the arguments to be drawn from those statements in favor of the position of the American commissioner; but, while those statements may be taken as evidence of what were the views of Mr. McLane and Mr. Benton, Her Majesty's government cannot accept them as necessarily proving what were the intentions of the plenipotentiaries who signed the treaty, or what is the fair construction of the treaty itself.

Her Majesty's government, indeed, do not think that they should be asked to do so, seeing that the words of the treaty, which ought to be the guide, do not properly admit of that interpretation; and that it is beyond dispute that the intentions of the British government that the line of boundary should be drawn through Vancouver's channel.

With reference to this point I have to state to you that the Earl of Aberdeen, to whom I have referred, informs me that he distinctly remembers the general tenor of his conversations with Mr. McLane on the subject of the Oregon boundary, and it is certain that it was the intention of the treaty to adopt the *mid-channel of the straits* as the line of demarcation, without any reference to islands, the position, and, indeed, the very existence, of which had hardly, at that time, been accurately ascertained; and he has no recollection of any mention having been made during the discussion of the Canal de Haro, or, indeed, any other channel than those described in the treaty itself. I also enclose a memorandum drawn up by Sir Richard Pakenham, the negotiator of the treaty of 1846.

Such being the state of the question, and Her Majesty's government being anxious to see it finally settled in a manner satisfactory and honorable to both parties, Her Majesty's government have had to consider the advice which it behoves them to tender to the Crown with a view to so desirable a result.

This duty has been rendered, in the present case, a comparatively easy one. Her Majesty's government cannot doubt that their desire for a mutually satisfactory and honorable settlement of the question is fully reciprocated by the government of the United States, and they feel confident that the gradual disappearance, one after another, through the good sense and conciliatory spirit shown by both governments, of these points of difference, which the President of the United States, in a former message to Congress, described as irritating questions, has left no room for doubting that this sole remaining question can also be satisfactorily adjusted.

Her Majesty's government trust that, as between this country and the United States, the day for tedious arbitrations, and still more, for hostile demonstrations, is gone by; they see no reason why this, and, indeed, any other question which may from time to time arise, should not be settled by direct and friendly communication between the two governments. The true and just interpretation of treaty engagements is the only law by which Her Majesty's government claim to be governed in their dealings with the United States; the force of argument is the only force to which they desire to appeal; and when the interpretation is asserted to be doubtful, or the argument fails to convince, her Majesty's government conceive that the only alternative which befits two great nations, bound to each other by such ties as those which unite Great Britain and the United States, is to endeavor to adjust the difference by mutually honorable compromise of conflicting pretensions.

Now the result of the survey upon which Captain Richards, of Her Majesty's ship *Plumper*, has been lately engaged, as set forth in the enclosed chart, shows that, in addition to the Rosario Straits and to the Haro Channel, there exists a third navigable passage connecting the Gulf of Georgia with Fuca's Straits.

This third channel is indeed reported by Captain Richards to answer, in respect of its central position and southerly direction, to the channel described in the treaty; and assuming it to have been the intention of the plenipotentiaries that the several channels connecting the Gulf of Georgia with Fuca Straits should be considered for the purpose of the treaty as one channel, it may fairly be argued that this central passage would not only satisfy the requirements of the treaty, but would divide between the two countries, in proportions which each party might consent to, the cluster of islands by which the channel is intersected. The advantage of such a line would indeed be with the United States, for there are only three islands of any territorial importance situated between the Haro Channel and Rosario Straits, namely, Orcas and Lopez islands and the island of San Juan; and by the adoption of the central channel as the boundary line, the two first named islands would belong to the United States, while only the island of San Juan would remain to Great Britain.

Your lordship will accordingly propose to the United States government that the boundary line shall be the middle channel between the continent of America and Vancouver's Island, as thus defined:

Starting from the north in the parallel  $48^{\circ} 50'$  north, and the meridian  $123^{\circ}$  longitude, west from Greenwich, (as laid down in the accompanying chart,) the mid-channel line would proceed due south, passing half way between Potos Island, on the east, and the east point of Saturna, on the west, to the centre of Douglas Channel, half way between Waldron and Orcas islands. Thence sweeping round to the southwest, southeast, and south, between San Juan, on the west, and the islands of Orcas, Shaw, and Lopez, on the east, the line would rejoin the  $123^{\circ}$  meridian, as soon as the safety of navigation would permit, at about one mile to the southward of the Salmon Bank, on the parallel  $48^{\circ} 28'$  north, and continue due south along this meridian until it falls into the common mid-channel course through Juan de Fuca Straits.

It will thus be observed that the meridian of  $123^{\circ}$  is assumed as the boundary, and is only departed from when forced to do so by the physical interference of the islands.

This middle channel, though inferior in some respects to the Haro Channel or to Rosario Straits, is described by Captain Richards as being perfectly safe for steamers, and also, under ordinary circumstances, navigable for sailing vessels. Her Majesty's government, however, do not consider this point as of much importance, since their proposition only extends to making this channel the line of boundary, and they do not propose to alter in any way that stipulation of the treaty which secures to the shipping of both countries the free navigation of the whole of the channels and of the straits—a stipulation advantageous to both parties, and which Her Majesty's government cannot doubt that the government of the United States will agree with them in thinking, must, under all circumstances, be maintained.

It appears to Her Majesty's government that a boundary line traced through the above-mentioned central channel likewise recommends itself for adoption as being in accordance with the principles which regulated the division between the two countries of the islands in the river Saint Lawrence.

Her Majesty's government further submit to the Cabinet of Washington whether, to a view to mutual convenience, it might not be desirable that the small promontory known as Point Roberts should be left to Great Britain. The point is of no intrinsic value to either government; but its possession by the United States will have the effect of detaching an isolated spot of small dimensions from the more convenient jurisdiction of the British colony. As the gov-



ernment of the United States will obtain, under the proposal now made, the more valuable portion of the islands in the straits, Her Majesty's government consider that the retention of Point Roberts can hardly be an object with them.

There is one other consideration to which I would wish to draw the attention of the government of the United States. In the discussions between Lord Ashburton and Mr. Webster, which resulted in the treaty of 1842, the American plenipotentiaries argued upon the relative importance to the two countries of the territory then in dispute. Her Majesty's government admitted the value of that argument, and acted upon it. The same language was employed in 1846, upon the Oregon question, and on both occasions the United States obtained the larger portion of the territory in dispute, their plenipotentiaries successfully arguing that it was of greater value to the United States than it could be to Great Britain.

Upon the present occasion this state of things is reversed. The adoption of the central channel would give to Great Britain the island of San Juan, which is believed to be of little or no value to the United States, while much importance is attached by British colonial authorities, and by Her Majesty's government, to its retention as a dependency of the colony of Vancouver's Island.

Her Majesty's government must, therefore, under any circumstances, maintain the right of the British Crown to the island of San Juan. The interests at stake in connection with the retention of that island are too important to admit of compromise, and your lordship will consequently bear in mind that whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's government which does not provide for the island of San Juan being reserved to the British Crown.

Your lordship will bring to the consideration of this question the same conciliatory spirit and frank and straight forward bearing which have distinguished you on previous occasions; and I am happy to think that in the President and Secretary of State of the United States you will find statesmen animated by the same honorable dispositions.

Her Majesty's government hope that the American government will appreciate the arguments you are instructed to employ and the spirit in which you will advance them, and Her Majesty's government will not permit themselves to believe that the negotiation can, under such circumstances, fail of a successful issue.

It may be proper, however, that you should make the government of the United States understand that this proposal of compromise which you are thus instructed to lay before them is made without prejudice to the claim, which Her Majesty's government consider themselves justified in maintaining, to the Rosario Channel as the true boundary between Her Majesty's possessions and those of the United States. They offer the compromise in the hope that its acceptance by the government of the United States may obviate any further discussion on the subject; but if it is rejected they reserve to themselves the right to fall back on their original claim to its full extent.

You will read this despatch to General Cass, and will leave with him a copy of it.

I am, &c., &c., &c.,

J. RUSSEL.

Lord LYONS, &c., &c., &c.

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*Sir Richard Pakenham on the Water Boundary under the Oregon treaty of 1846.*

I have examined the papers put into my hands, by Mr. Hammond, relating to the line of boundary to be established between the British and the United States possessions on the northwest coast of America, and I have endeavored



to call to mind any circumstance which might have occurred at the time when the Oregon treaty was concluded (15th June, 1846,) of a nature either to strengthen or invalidate the pretension now put forward by the United States Commissioner, to the effect that the boundary contemplated by the treaty would be a line passing down the middle of the channel called Canal de Haro, and not, as suggested on the part of Great Britain, along the middle of the channel called Vancouver's or Rosario Strait, neither of which two lines could, as I conceive, exactly fulfil the conditions of the treaty, which, according to their literal tenor, would require the line to be traced along the middle of the channel. (meaning, I presume, the whole intervening space) which separates the continent from Vancouver's Island. And, I think I can safely assert, that the treaty of 15th June, 1846, was signed and ratified without any intimation to us whatever, on the part of the United States government, as to the particular direction to be given to the line of boundary contemplated by article I of that treaty.

All that we knew about it was that it was to run "through the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of Fuca's Straits to the Pacific Ocean."

It is true that in a despatch from Mr. McLane, then United States minister in London, to the Secretary of State, Mr. Buchanan, dated 18th May, 1846, which despatch, however, was not made public until after the ratification of the treaty by the Senate, Mr. McLane informs his government that the line of boundary about to be proposed by Her Majesty's government would "probably be substantially to divide the territory by the extension of the line in the parallel of 49° to the sea, that is to say, to the arm of the sea, called Birch's Bay, thence by the Canal de Haro and straits of Fuca to the ocean."

It is also true that Mr. Senator Benton, one of the ablest and most zealous advocates for the ratification of the treaty, (relying, no doubt, on the statement furnished by Mr. McLane,) did, in speech on the subject, describe the intended line of boundary to be one passing along the middle of the Haro channel.

But, on the other hand, the Earl of Aberdeen, in his final instructions, dated 18th May, 1846, says nothing whatever about the Canal de Haro, but on the contrary, desires that the line might be drawn "in a southerly direction through the centre of King George's Sound and the Straits of Fuca to the Pacific Ocean."

It is my belief that neither Lord Aberdeen, nor Mr. McLane, nor Mr. Buchanan, possessed at that time a sufficiently accurate knowledge of the geography or hydrography of the region in question to enable them to define more accurately what was the intended line of boundary than is expressed in the words of the treaty and it is certain that Mr. Buchanan signed the treaty with Mr. McLane's despatch before him, and yet that he made no mention whatever of the "Canal de Haro" as that "through which the line of boundary would run, as understood by the United States government."

My own despatch of that period contains no observation whatever of a tendency contrary to what I thus state from memory, and they, therefore, so far, plead in favor of the accuracy of my recollection.

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No. 6.

*Lord Lyons to Mr. Cass.*

Immediate.]

WASHINGTON, September 3, 1859.

SIR: It is stated by the newspapers that intelligence has been received in this city that a detachment of United States troops has endeavored, by order of General Harney, to establish itself on the island of San Juan, in the Gulf of Georgia.

It is needless that I should dwell upon the considerations which render me extremely anxious that this statement should not reach Her Majesty's government without such information respecting its truth or falsehood, and such explanations concerning it as the government of the United States may be disposed to afford. It cannot be necessary for me to do more than refer you to the note which I had the honor to address to you on the 12th of May last, in pursuance of the orders of Her Majesty's principal secretary of state. In that note, after informing you that instructions would shortly be sent to me to communicate with you in the hope of arriving at a satisfactory settlement on the subject of the respective claims of Great Britain and the United States to the island of San Juan, I wrote as follows :

I am desired to add, that Her Majesty's government are sure that the Cabinet at Washington would regret, as much as themselves, that any local collision should arise in the interval which would tend to embitter a discussion which might otherwise be conducted with cordiality and good will. Her Majesty's government trusts, therefore, that citizens of the United States will be restrained, as far as the institutions of their government admit of their being so, from attempts to settle, by unauthorized acts of resistance, a question which there will probably be little difficulty in arranging by amicable communications between the two governments.

I have not had the honor to receive from you an answer to the note just quoted, and I am, on that account, the more earnest in requesting you to enable me to send, as speedily as possible, satisfactory information to Her Majesty's government on the subject to which it relates. I am so anxious on this point that I venture to remind you that I shall despatch a messenger from this Legation on Monday next, the 5th instant, (the day after to-morrow,) at half past 1 o'clock, to meet the royal mail steamer packet at Boston.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant,

LYONS.

Hon. LEWIS CASS,  
*Secretary of State, &c., &c., &c.*

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No. 7.  
*Lord Lyons to Mr. Cass.*

Immediate.]

WASHINGTON, September 7, 1859.

SIR : When I had the honor of waiting upon you, at your request, at the State Department on the 5th instant, you were so good as to say that although you were not yet in possession of sufficiently detailed reports to enable you to reply at once to the note which I had, two days before, asked for explanations with regard to the alleged occupation of the island of San Juan by United States troops, you would, nevertheless, verbally give me such information as it was in your power to afford.

You then did me the honor to state to me that the only official account which had reached the government was a report from General Harney, which had been forwarded from New York by General Scott, and that the substance of that report was that General Harney had found it necessary, in consequence of a requisition from United States citizens, to send to the island of San Juan a detachment to protect those citizens from the Indians, and from ill treatment on the part of the English, and that he had accordingly sent one company of soldiers for this purpose, and held another in readiness to send also in case of need.

You proceeded to inform me that the President had directed the War Department to apprise General Harney that the government of the United States considered that the principle to be observed with regard to disputed territory was, that the actual status should be maintained ; that, consequently, he was by no means to take possession of the island of San Juan, or to set up any juris-

diction there. You added, however, that orders had not been sent to withdraw the United States troops. Those troops you said would be instructed to confine themselves strictly to the protection of American citizens, but it might, you added, be necessary that they should remain at San Juan for that purpose.

Finally, you did me the honor to request me to acquaint Her Majesty's principal Secretary for foreign affairs with what you had said, and especially to assure his lordship, from the President and from yourself, that General Harney had not acted upon orders from the government, but entirely upon his own responsibility.

I had just time, after my return home, to write a report of the information which you had thus given me to despatch to Lord John Russell by the messenger who was about to set out to meet the royal mail steam packet at Boston. I made that report almost exactly in the words which I have used in repeating above the substance of your communication to me.

The newspapers of this evening announce the arrival of a mail, bringing full intelligence respecting the disembarkation of the United States troops on the island of San Juan. I feel confident that you will hasten to afford me the information and explanation for which I applied in the note to which I have already referred. But I am so desirous that these explanations should reach Her Majesty's government, as nearly as possible simultaneously with the intelligence of the occurrences at San Juan, that I take the liberty of reminding you that I shall be able to send by telegraph to Halifax, in time to be forwarded to London by the royal mail steamer, any information which you may do me the honor to give me in the early part of to-morrow. I am rendered particularly anxious upon this subject, by observing among the news inserted in the evening journals the following document, purporting to be an order issued by Captain Pickett, commanding the party of United States troops which has landed on the island :

MILITARY POST, SAN JUAN ISLAND,  
*Washington Territory, July 27, 1859.*

I. In compliance with orders and instructions from the General commanding, a military post will be established on the island, on whatever site the commanding officer may select.

II. All the inhabitants of the island are requested to report at once to the commanding officer, in case of any incursion by the northern Indians, so that he may take such steps as he may deem necessary to prevent any future occurrence of the same.

III. This being United States territory, no laws other than those of the United States, nor courts, except such as are held by virtue of said laws, will be recognized or allowed on this island.

Captain PICKETT.

By order :

JAMES W. FORSYTH,  
*Second Lieut. 9th Infantry, Post Adjutant.*

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

You are doubtless aware that I have the means of transmitting confidential communications by telegraph in a cipher which can be understood only at the Foreign Office in London.

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No. 8.

*General Cass to Lord Lyons.*

DEPARTMENT OF STATE,  
*Washington, September 8, 1859.*

MY LORD : Your note of yesterday reached me this morning. Your note of the 3d instant, to which you refer, was received the next day after its date.

Sunday; and on Monday, the day following, as there was not time to write you before the departure of your messengér, I requested an interview with your lordship, during which the conversation took place which is recapitulated in your last note. I mention these circumstances in explanation of their delay of two days, to which your lordship has referred.

The conversation is correctly reported, with one exception. The exception is where you understood me to say "that consequently he (General Harney) was by no means to take possession of the island of San Juan, or to set up any jurisdiction there." I have already explained to your lordship why I could not have made this remark, and I now beg leave to add that in attributing it to me you misunderstood my views.

No information respecting occurrences at San Juan has reached the government since the receipt of General Harney's report.

I avail myself of this opportunity to renew to your lordship the assurance of my high consideration.

LEWIS CASS.

LORD LYONS, &c., &c., &c.

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No. 9.

*Lord Lyons to Mr. Cass.*

WASHINGTON, *September 9, 1859.*

SIR: I have this morning received the note dated yesterday, in which you refer to the verbal communication which you did me the honor to make to me on the 5th instant, with respect to the disembarcation of United States troops upon the island of San Juan.

You were, early yesterday, so good as to inform me, orally, that the recital of that communication made in my note of the 7th instant contained one phrase which gave an erroneous representation of your views on a particular point. I immediately transmitted, by telegraph, to Halifax a despatch, to be forwarded to Her Majesty's principal Secretary of state for foreign affairs, in which I stated to his lordship that you had informed me that the phrase in question ought to be cancelled. I will to-day transmit to Her Majesty's government a copy of the note from you to which I have now had the honor to reply.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

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No. 10.

*Mr. Cass to Mr. Dallas.*

No. 195.]

DEPARTMENT OF STATE,  
*Washington, September 22, 1859.*

SIR: Difficulties, as you are aware, have arisen respecting the boundary, upon the Pacific, between the United States and the British possessions. The commissioners who have been engaged in running the line have been unable to come to an agreement, and have referred the matter to their respective governments. The subject in dispute is the strait or channel between the Gulf of Georgia and the Straits of Fuca, and especially the island of San Juan, which is considered valuable from its position. This government has no doubt but that

the Canal de Haro is the true boundary contemplated by the treaty of 15th June, 1846. The question of title has been ably discussed by our commissioner, Archibald Campbell, esq., and I will, in the course of a few days, cause an abstract of his argument to be made out and forwarded to you. At an early day I shall also communicate to you the views of this government, in reply to the note of Lord John Russell, dated the 24th ultimo, of which a copy has been sent to you. In the mean time the papers which accompany this despatch will make known to you the state of things in that quarter, and also the complaints and claims of the British government. I have had a good deal of conversation with Lord Lyons on this subject, and I have assured him of the regret of the President at the recent difficulties at San Juan, and his confident hope that, by the moderation and friendly feelings of the two governments, it will be attended with no serious consequences.

I am, sir, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq.

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*List of papers accompanying the above.*

Lord Lyons to General Cass, May 12, 1859.

Lord J. Russell to Lord Lyons, with an accompaniment, August 24, 1859.

Lord Lyons to General Cass, September 3, 1859.

Same to same, September 7, 1859.

General Cass to Lord Lyons, September 8, 1859.

Lord Lyons to General Cass, September 9, 1859.

Mr. Marcy to Mr. Crampton, with an accompaniment, July 17, 1855.

General Harney to the Assistant Adjutant General, July 19, 1859.

Mr. Drinkard to General Harney, September 3, 1859.

The above papers are to be found elsewhere in this report.

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No. 11.

*Lord Lyons to Mr. Cass.*

WASHINGTON, October 1, 1859.

SIR: I have received a despatch from Her Majesty's principal Secretary of state for foreign affairs, in which his lordship adverts to the note which I had the honor to address to you, on the 12th of May last, on the subject of the reports which had reached Her Majesty's government, of an intention on the part of citizens of the United States to take possession of the island of San Juan. In that note I stated the conviction of Her Majesty's government that the Cabine of Washington would regret as much as Her Majesty's government that any local collision should arise tending to embitter a discussion which might otherwise be conducted with cordiality and good will; and also the hope of Her Majesty's government that citizens of the United States would be restrained, so far as the institutions of their country admitted, from attempts to settle, by any unauthorized acts of violence, a question which there would probably be little difficulty in arranging by amicable communication between the two governments. No answer has yet been made to this note, but Her Majesty's government are so convinced of the friendly disposition and loyal intentions of the Cabinet of Washington, that they might not have thought it necessary to revert to the subject had they not learned that a report had reached this city that troops of the United States had actually taken possession of the island of San Juan.

Under these circumstances Her Majesty's government are anxious that my note should not remain unanswered. They cannot doubt that you, sir, will be ready to disclaim, on the part of the Cabinet of Washington, the having authorized, or having been in any way privy to these reported proceedings, and to give an assurance of the determination to discountenance and to repress, so far as the institutions of the United States will allow, all attempts to settle, by unauthorized acts of residence, a question which ought to be arranged by friendly discussion between the two governments, and with respect to which Her Majesty's government justly anticipated that I would have already entered into communication with you, under the instructions contained in the despatch from Lord John Russell, dated the 24th August, of which I had the honor to place a copy in your hands on the 12th ultimo.

I have thought it my duty thus to make known to you the sentiments expressed by Her Majesty's government upon becoming acquainted with the concise telegraphic intelligence which appeared in the newspapers of this city on the 3d ultimo. I will not encroach upon your time by adding any observations of my own, either upon the detailed accounts which have since from time to time been received here from San Juan, or upon the frequent conversations which I have had the honor to hold with you respecting them. I will merely beg you to accept my best thanks for the information you have so courteously given me in the course of these conversations, and to believe that if I await with some impatience a more formal and explicit communication from you, it is because I am persuaded that such a communication would be the most effectual means of displaying in their true light the just and friendly sentiments of the Cabinet of Washington.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS,

*Secretary of State, Washington, D. C.*

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No. 12.

*Lord Lyons to Mr. Cass.*

WASHINGTON, *October 10, 1859.*

SIR: Her Majesty's government have received my report of the verbal communication which you did me the honor to make to me on the 5th of last month, with regard to the recent occupation of the island of San Juan by United States troops.

It is satisfactory to Her Majesty's government to learn, as to the past, that General Harney did not act on that occasion upon any order from the United States government, but entirely on his own responsibility.

But, as to the future, Her Majesty's government cannot consider it satisfactory that my note of the 12th of May last should have remained without an answer. They have, consequently, requested me to press for an answer to that note, and to urge that orders be sent to the United States officers not to use military force on disputed territory without direct authority from the President, for Her Majesty's government cannot but think that if such acts are to take place by the sole direction of subordinate officers, and the President does not disavow them, the consequence must be as evil as if the President had authorized them from the beginning.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon LEWIS CASS, &c., &c., &c.



No. 13.

*Lord Lyons to Mr. Cass.*WASHINGTON, *October 15, 1859.*

SIR: I have the honor to inform you that I received this morning, from Her Majesty's principal secretary of state for foreign affairs, a despatch informing me that Her Majesty's government had had under their consideration my reports of the communications which had taken place between you, sir, and myself, previously to the 14th of last month, relative to the island of San Juan.

Her Majesty's government awaited, with anxiety, the further decision of the government of the United States respecting that island.

The withdrawal of the United States troops, or an arrangement for joint occupation by British marines and the military force of the United States, would provide for the immediate difficulty.

But the course most conducive to permanent relations of friendship between the two countries would be the acceptance of the United States of the fair and equitable proposal contained in the despatch from Lord John Russell, dated the 24th of August last, of which I had the honor to place a copy in your hands on the 12th of last month.

I am instructed, sir, earnestly to recommend these points to your attention, and to inform you that the course of Her Majesty's government will be guided by the nature of your reply.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &amp;c., &amp;c., &amp;c.

No. 14.

*General Cass to Lord Lyons.*

DEPARTMENT OF STATE,

*Washington, October 22, 1859.*

MY LORD: I have had the honor to receive your lordship's note of the 10th instant, in which you recall my attention to your previous note of the 12th of May, on the subject of the recent occupation of the island of San Juan by troops of the United States.

In several conversations with your lordship, I have endeavored to place you fully in possession of such information on this subject as the President has received, and of the general views of this government with respect to it. You are aware that on the 14th July, 1855, Mr. Marcy, the late Secretary of State, addressed a letter to Governor Stevens, of Washington Territory, with the special purpose of preventing any conflict on the island pending the settlement of the title to it, which was in dispute between the two countries. While this government had no doubt whatever that the island belonged to the United States, it was quite willing, for this very reason, to await the result of negotiation which might be expected to lead to this conclusion. A copy of Governor Marcy's letter was communicated to Mr. Crampton, then Her Majesty's minister in Washington, and on the 18th of July, 1855, he replied, "entirely concurring in the propriety of the course recommended" to Governor Stevens, and expressing his intention to advise a similar course on the part of the local authorities of Great Britain. Nothing had been done on the part of the United States to change this condition of affairs at the time when General Harney thought it necessary, for the protection of American citizens, to direct a military force to take position

on the island. In verbally communicating to you these facts, I also informed your lordship that General Scott had been ordered to Washington Territory with a view to ascertain the precise condition of affairs in that region, and with instructions calculated to prevent any further conflict of jurisdiction on the island, pending the negotiation between the United States and Great Britain, on the subject of their mutual claims to it under the treaty of 1846. The President fully concurs in the opinion expressed by Governor Marcy, that the island is a part of the possessions of the United States, and he confidently hopes that this may be soon established by friendly discussion, without further collision of any character between the citizens and subjects of the two countries, residing in the vicinity of the island.

Thinking it quite right that what has thus been stated in conversation should be repeated in a more distinct and formal manner, the President has instructed me to address to you this note, and to enclose to you copies of the instructions recently issued on the subject by the [acting] Secretary of War to General Scott,\* and by this Department to the governor of Washington Territory. In the transmission of these copies, I trust you will see renewed evidence of the desire of this government to maintain the most frank and friendly relations with that of Great Britain.

I embrace this opportunity of renewing to your lordship the assurances of my high consideration.

LEWIS CASS.

Lord LYONS, &c., &c., &c.

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*Mr. Cass to Governor Gholson.*

DEPARTMENT OF STATE,

*Washington, September 15, 1859.*

SIR: The information which has reached here, showing the serious state of things connected with the island of San Juan, has induced the President to order Brevet Lieutenant General Scott, to that quarter to take the command of our military and naval forces, with such instructions as the circumstances call for. It is to be hoped that a firm and discreet course will prevent the occurrence of any further difficulties there, so that the matter in dispute may be settled by the respective governments. General Scott has been requested to explain to you the views of the President, and also to show to you the instructions he has received. I write you by the direction of the President, who desires that you would co-operate with General Scott, and exert your official authority, as well as your personal influence, to carry into effect the objects committed to him.

Very respectfully, your obedient servant,

LEWIS CASS.

RICHARD D. GHOLSON, Esq.,

*Governor of Washington Territory, Olympia, W. T.*

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No. 15.

*Mr. Cass to Mr. Dallas.*

No. 209.]

DEPARTMENT OF STATE,

*Washington, October 20, 1859.*

SIR: When the treaty of 1846 had been concluded, between the United States and Great Britain, it was believed that all controversy concerning the boundary between their respective possessions on the northwest coast of Amer-

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\*The instruction to General Scott is dated 16th September, 1859, and is printed in Senate Ex. Doc. No. 10, 36th Congress, 1st session, p. 22 a copy of which accompanies these papers. (See p. 160.)

ica was forever set at rest. In order to accomplish this result, the United States had relinquished its title, which it regarded as clear and unquestionable to all that portion of Oregon Territory which was included between the parallels of  $49^{\circ}$  and  $54^{\circ} 40'$  north latitude, and, for the sake of peace, consented to a deflection from the 49th parallel, so as to leave Vancouver's Island undivided to Great Britain. After these concessions, I need not explain to you with what regret and disappointment this government now finds its title drawn in question to still other territory, south of the parallel of  $49^{\circ}$ , its right to which it was thought was beyond any possible dispute. When the first doubt concerning it was suggested, it was hoped that it might be readily determined by the commissioners who should be appointed on the part of both governments to survey and mark out the treaty line. You are aware, however, that the commissioners appointed for this purpose were unable to agree as to that part of the boundary which lies between the point of deflection on the 49th parallel and the Straits of Fuca, and that they reported their disagreements to their respective governments. A new subject of difference has thus arisen between the two countries, the adjustment of which, we are admonished by recent events, cannot be long delayed without serious hazard to their friendly relations. It is doubtless in this view of it that the British government has recently proposed to the United States to adopt what it regards as a compromise line of boundary between the conflicting claims of the two commissioners. This proposal is made in a despatch from Her Majesty's principal Secretary of state for foreign affairs to Lord Lyons, the British minister, in Washington, dated August 24, 1859, a copy of which he was directed to furnish to this Department, and of which a copy will also accompany this note.

The President has not failed to consider this despatch with all that attention that is due to the importance of its subject, and he cordially reciprocates the desire expressed by Her Majesty's government for a "mutually satisfactory and honorable settlement of the question" in controversy. He concurs also with Lord John Russell, that after the gradual disappearance, one after another, of so many of these points of difference which have disturbed the relations of the two countries, no reasonable doubt should be entertained that this new question which has arisen will, in like manner, be amicably adjusted. It is impossible, however, to reconcile these just and friendly sentiments of his lordship with the declaration which is made in another part of the same despatch, that the British government is already determined, under any circumstances whatever, to maintain its right to the island of San Juan: "The interests at stake in connection with the retention of that island are too important," it is said, "to admit of compromise, and your lordship will consequently bear in mind, that whatever arrangement as to the boundary line is finally arrived at, no settlement of the question will be accepted by Her Majesty's government which does not provide for the island of San Juan being reserved to the British Crown."

If this declaration is to be insisted on, it must terminate the negotiation at its very threshold; because this government can permit itself to enter into no discussion with that of Great Britain, or any other power, except upon terms of perfect equality. And when Her Majesty's government declares that it will never yield its right to the island of San Juan, this government has only to declare a similar determination on the part of the United States, in order to render any further discussion of the subject entirely fruitless. I cannot persuade myself, however, that any such result as this was contemplated by Her Majesty's government, or that the United States could have been expected to enter upon a negotiation where its own claim was excluded in advance, and the only adjustment possible was that claimed by the opposite party. But for this confidence which he feels in the good intentions of Her Majesty's government, the President, I am instructed to say would not feel himself at liberty to entertain the proposition of Lord John Russell, even for the purpose of discussion; and it is only

because he believes that the objectionable declaration by which it is accompanied will receive a prompt explanation or withdrawal, that he has instructed me to offer some observations in respect to it.

The proposition being a proposition of compromise, assumes, of course, that the difference between the two governments, as to the meaning of the treaty, in that part of it which is in controversy, is wholly irreconcilable. The President is not prepared, however, to reach this conclusion until every reasonable effort has been exhausted to avoid it, and he cannot help expressing his regret that the British government should have thought it necessary to abandon the treaty line for a line purely arbitrary, before any discussion whatever had been had on the subject with the United States. It is quite true that the commissioners of the two countries, who were appointed in 1856, failed to reach an agreement as to the water boundary between Vancouver's Island and the continent, but this very failure may have been induced by the conviction—with which the British commissioner seems to have entered upon his work—that a disagreement was inevitable. Such a result was even contemplated in the original instructions, under which Captain Prevost commenced his labors, and he was authorized, in view of it, to propose the very compromise which is now suggested by Lord John Russell, while he appears to have received substantially the same caution, with respect to the island of San Juan, which is given to Lord Lyons in the annexed despatch. Without entering into any comment upon the peculiar character of these instructions, or undertaking to determine how far they influenced the course of the British commissioner, I think they are calculated to explain, in some measure, the failure of the commission, and to justify the hope which the President still entertains, that the true line of the treaty may yet be agreed upon by the two governments. The treaty provides that the boundary line shall "be continued westward along the said 49th parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of said channel, and of Fuca's Straits, to the Pacific Ocean; provided, however, that the navigation of the whole of said channel and straits south of the 49th parallel of north latitude remains free and open to both parties."

It is much to be regretted, undoubtedly, inasmuch as the present controversy has arisen, that there was not annexed to the treaty of 1846 any map or chart by which the true meaning of the expressions made use of in this article could be authoritatively ascertained. Unquestionably, however, this subject was occasioned, and the terms of the article are less precise than they would otherwise have been, in consequence of the conviction of the negotiators of the treaty that their purpose in framing it was too clear to be misunderstood; and that, when this purpose was known, two great nations could never enter into conflict about the collocation of words, or the signification of a doubtful phrase. In this belief, I am persuaded that the negotiators were only just to their respective governments, and that, if the purpose of the article can be at once determined in harmony with the general tenor of its language, this discussion will be forever terminated. It is to this inquiry, therefore, that I shall first address myself.

The Oregon negotiation which resulted in the treaty of 1846 originally involved, as you are aware, the whole of that territory west of the Rocky Mountains, between the parallels of 42° and 54° 40' north latitude, which is now occupied south of the British line by the State of Oregon and the Territory of Washington. When President Polk came into office in 1845, he found this whole region still in the joint occupation of the United States and Great Britain, under the treaty of 1827. Repeated efforts had been made to accomplish an amicable division of the territory between the two countries upon the basis of the parallel of 49°, and a proposition for the compromise was actually pending in Washington when Mr. Polk became President. Under these circumstances he felt himself bound to continue the negotiation, although in his inaugu-

ral address he had declared his full conviction that we had a clear title to the whole territory. He repeated the offer, therefore, which Great Britain had previously declined, to adopt the parallel of  $49^{\circ}$  as the boundary between the United States and that government, and he offered in addition to make free to Great Britain any port or ports on Vancouver's Island, south of that parallel, which the British government might desire. In his note of July 12, 1845, announcing to Mr. McLane, who was then the American minister, that this offer had been made, Mr. Buchanan, the Secretary of State, took care to explain that it was only made by the President in deference to the repeated action of his predecessors, and that with a single exception it was to be regarded as the ultimatum of this government. "From what has been said," he writes, "you will perceive how perfectly impossible it is for the President to accept any terms of compromise which would bring the British south of the parallel of  $49^{\circ}$ , and this you may intimate to the British ministers in conversation, should you deem it wise under the circumstances. The only exception to this rule which could possibly be made, might be the concession for an adequate equivalent of the small cape of Vancouver's Island south of this latitude." The offer, however, was rejected by the British minister in Washington, and was immediately withdrawn, Great Britain being informed, at the same time, that it would not be renewed, and that no further proposition would be made by the United States. It remained for the British government, therefore, to determine what other steps, if any, should be taken to continue the negotiation. The first proposal which was then made was a proposal for arbitration, and this was declined by the President, for the avowed reason, among others, that its acceptance might possibly result in bringing the British possessions below the parallel of  $49^{\circ}$ . Meanwhile a resolution was passed by the Senate, advising the President to give the necessary notice to terminate the treaty of 1827, which provided for the joint occupancy of Oregon—and this notice was given.

In this serious condition of affairs, renewed efforts were made through Mr. McLane, in London, to induce the President to repeat his offer of July 12, which had been rejected by Mr. Pakenham, without any reference of it to his government, but the President refused to change his position. In reference, however, to that or any similar offer which might be made by Great Britain, he made no secret of the course which he might be expected to pursue. "He could not now authorize," Mr. Buchanan wrote to Mr. McLane, on the 29th January, 1846, "the conclusion of a treaty on that basis. But the Senate, his constitutional advisers, are now in session. The question of peace or war may be involved in the issue. \* \* \* In deference to the Senate, under these circumstances, he would in the first instance feel it to be his duty to submit such a proposition for their previous advice. \* \* \* The President will accept nothing less than the whole territory, unless the Senate should otherwise determine. The only question which he will decide is, whether the new proposition, should any such be made, be of a character to justify its submission to the Senate for their previous advice." With these views before him, and which were communicated to Her Majesty's government, Mr. McLane was authorized to receive and transmit to his government any proposition which Lord Aberdeen might make to him for that purpose; but the negotiation was in no event to be transferred to London. On the 15th of May the proposition seems to have been determined on by Great Britain, and Mr. McLane was then for the first time informed of it. "I had a lengthened conference with Lord Aberdeen," he wrote to Mr. Buchanan on the 18th of May, "on which occasion the resumption of the negotiation for the amicable settlement of the Oregon question, and the nature of the proposition he contemplated submitting for that purpose, formed the subject of a full and free conversation. I have now to state that instructions will be transmitted to Mr. Pakenham by the steamer of to-morrow, to submit a new and further proposition on the part of this govern-



ment for the partition of the territory in dispute. The proposition most probably will offer substantially, first, to divide the territory by the extension of the parallel of  $49^{\circ}$  to the sea—that is to say, to the arm of the sea called Birch's Bay—thence by the Canal de Haro and Straits of Fuca, to the ocean, and confirming to the United States (what indeed they would possess without any special confirmation) the right freely to use and navigate the strait throughout its extent." After further describing the proposal, Mr. McLane adds, that he has reason to know that it is not an *ultimatum*, but that Mr. Pakenham would have no authority to modify it without consulting his government, and he expressed also the confident opinion that it will not be possible to obtain the extension of the forty-ninth parallel to the sea, so as to give the southern cape of Vancouver's Island to the United States.

In conformity with the expectation of Mr. McLane, the British proposal was sent to Mr. Pakenham by the steamer of May 19, and on the 6th of June it was presented by Mr. Pakenham to Mr. Buchanan. The proposal thus made was precisely the present treaty of 1846. On the 10th of June it was laid before the Senate by the President, with a request for their advice as to the action which, in their judgment, it may be proper to take in reference to it. On the 12th of June the Senate adopted a resolution advising the President "to accept the proposal of the British government;" Four days after the treaty was sent to the Senate for its approval; and on the 18th of June it was ratified in the precise form in which it came from the British government.

From this narrative, whatever may be said of the language which the negotiators of the Oregon treaty employed, to give effect to their intentions, there can be no doubt, it seems to me, as to the boundary which they had in view. The great controversy was ended on the forty-ninth parallel of north latitude. It is at this parallel that the boundary begins in the first article. It is this boundary which controls the British right of navigation, "on the great branch of the Columbia River," in the second article. It is this parallel which is referred to also in the third article in connection with the possessory rights of the Hudson's Bay Company. It is this parallel, moreover, which has been the basis of every Oregon negotiation which has ever been undertaken by either country. It was adopted at last in 1846, and now remains, with a single exception, the undisputed northwestern boundary of the United States. Had Vancouver's Island never existed, this exception would have been neither proposed nor conceded; but the boundary of forty-nine would have run directly to the ocean. Great Britain urged, however, that a divided jurisdiction on this island might be a source of constant difficulty to both countries; and since by far the larger part of it was north of the line, she insisted that the line should be deflected far enough to the south to leave the whole of it in her possession. Even this claim was strenuously resisted, and the United States endeavored for a long time to avoid it, by offering to concede the freedom of the harbors in the southern part of the island, instead of conceding the territory itself. Great Britain, however, refused to yield, and the deflection was finally adopted. It was adopted for the single purpose of leaving Vancouver's Island undivided. This was all that the British government claimed, and this was all that the American government conceded. Mr. Buchanan had written to Mr. McLane, that except, for this purpose, the President would never consent to bring the British boundary a single inch below the parallel of  $49^{\circ}$ , and no other purpose than this was anywhere avowed. If the British government had desired still other territory south of  $49^{\circ}$  it is quite incredible that this desire should never have been announced. The geography of that region was less perfectly known at that time than it now is; but on all the maps the Canal de Haro, and the archipelago east of it, were laid down with sufficient accuracy. No claim was made, however, to the possession of these islands, and the very island of San Juan which is now so highly estimated by the British government was suffered to pass unnoticed. There can be no reason



able doubt, therefore, that, in the language employed by Senator Benton, in his speech in support of the treaty, "the line established by that article [the 1st] \* \* \* follows the parallel of 49° to the sea, with a slight deflection to avoid cutting the south end of Vancouver's Island." This being established, it remains now to inquire in what manner the intention of those who negotiated the treaty was carried into effect.

With respect to that part of the line of boundary which, in the words of the treaty, "shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island," there appears to be no dispute, and there is no conflict either as to that part of it which leads through the Straits of Fuca to the ocean. The only portion of it which is called in question is that which leads from the point of deflection on the forty-ninth parallel to Fuca's Straits; and even here I am unable, I confess, to appreciate the difficulties by which Her Majesty's government seems to be embarrassed. The words of the treaty are: "through the middle of said channel and of Fuca's Straits to the Pacific Ocean." Ordinarily, and in the absence of any other controlling circumstances, the way which would be selected from one given point to another would be the shortest and the best way. In the present case this is the Canal de Haro, which is, undoubtedly, the broadest, the deepest, and the shortest route by which the Straits of Fuca can be reached from the point of deflection. This pre-eminence was given to it by DeMofras as long ago as 1841, and it has been fully confirmed by subsequent surveys. The Canal de Haro may, therefore, be fairly regarded, from its own intrinsic merits merely, as the main channel down the middle of which the treaty boundary is to pass to the Straits of Fuca. It is the only channel, moreover, which is consistent with the purpose of those who negotiated the treaty, for it is the only channel which separates Vancouver's Island from the continent without leaving something more to Great Britain south of the forty-ninth parallel than the southern cape of that island. The Rosario Channel claimed by Captain Prevost would surrender to Great Britain not only Vancouver's Island, but the whole archipelago between that island and itself; while the middle channel, which is proposed as a compromise by Lord John Russell, would in like manner concede the important island of San Juan. These considerations seem to be almost conclusive in favor of the Haro Channel. But they are abundantly confirmed by evidence contemporaneous with the negotiation of the treaty. The description given by Mr. McLane, immediately after he had an interview on the subject with Lord Aberdeen, of what the British proposal would be, has already been mentioned, and carries the line in so many words down the Canal de Haro. Equally clear is the statement of Senator Benton as to what the proposition was. Colonel Benton was one of the most earnest members of the Senate in his support of the treaty; and he was better acquainted, perhaps, than any other member with the geography of the region in dispute. His construction, therefore, of the treaty, at the very time it was before the Senate for ratification, is entitled to no inconsiderable weight. On that occasion he said: "The first article is in the very words which I myself would have used, \* \* \* and that article constitutes the treaty. With me it is the treaty. \* \* \* The great question was that of boundary. \* \* \* When the line reaches the channel which separates Vancouver's Island from the continent \* \* \* it proceeds to the middle of the channel, and thence turning south through the channel de Haro (wrongly written *Arro* in the map) to the Straits of Fuca." Mr. Buchanan, who signed the treaty, was equally explicit in his understanding of this part of it. In a letter to Mr. McLane, dated the sixth of June, 1846, (the very day on which the treaty was presented by Mr. Pakenham to Mr. Buchanan,) a copy of which is now before me, he expressly mentions the Canal de Haro as the channel intended by the treaty; and subsequently, on the 28th December, 1846, Mr. Bancroft having written to

him on the subject from London, he enclosed to him a traced copy of Wilkes's Chart of the Straits of Arro, and added in his letter: "It is not probable, however, that any claim of this character will be seriously preferred by Her Britannic Majesty's government to any island lying to the eastward of the Canal de Arro, as marked in Captain Wilkes's map of the Oregon Territory." Mr. Bancroft, who was a member of President Polk's Cabinet when the treaty was concluded, wrote repeatedly to Lord Palmerston after receiving this chart, and uniformly described the Straits of Arro "as the channel through the middle of which the boundary is to be continued." He seems at one period to have been informed that the Hudson's Bay Company were inclined to encroach upon the islands east of the Haro Channel, and to claim them under the treaty, but he did not rely fully upon this information, and "the ministry," he said, "has, I believe, no such design. Some of its members would be the first to frown on it." The Canal de Haro, then, as being the best channel leading from the point of deflection to the Straits of Fuca; as answering completely the purpose for which the deflection was made; as being the only channel between the island and the main land which does answer this purpose, and as being supported, also, by a large amount of personal testimony contemporaneous with the treaty, must fairly be regarded, in my judgment as the treaty channel. Nor are there any important difficulties which seem to me to be necessarily in conflict with this conclusion. Lord John Russell, indeed, says that it is beyond dispute that the intentions of the British government were that the line of boundary should be drawn through Vancouver's Channel. But this assumption is wholly inconsistent, not only with the treaty itself, but with the statements both of the Earl of Aberdeen and of Sir Richard Pakenham. Lord Aberdeen declares that it was the intention of the treaty to adopt the *mid channel of the straits* at the time of demarcation, without reference to islands, the position of which, and indeed the very existence of which, had hardly at that time been accurately ascertained; "and he has no recollection of any mention having been made during the discussion of any other channel than those described in the treaty itself." Sir Richard Pakenham is still more explicit. "Neither the Canal de Haro nor the channel of Vancouver," he says, "could, as I conceive, exactly fulfil the conditions of the treaty which, according to their literal tenor, would require the line to be traced along the middle of the channel, meaning, I presume, the whole intervening space which separates the continent from Vancouver's Island." He adds further, that he has no recollection whatever that any other channel was designated in the discussions than that described in the language of the treaty. Surely there is nothing in this testimony which supports the statement of Lord John Russell that the channel of Vancouver was the channel intended by the treaty; but on the contrary another and entirely different channel is suggested as that which the convention requires. After these statements of Lord Aberdeen and Sir Richard Pakenham, the Rosario Channel can no longer, it seems to me, be placed in competition with the Canal de Haro. Whether the latter is the true channel or not in the opinion of the British negotiation, it is quite certain, by the concurrent testimony of both the American and British negotiators, that the former channel is not. In respect moreover, to the Canal de Haro, the other considerations to which I have referred appear to me to quite outweigh the mere want of recollection of Lord Aberdeen and Sir Richard Pakenham, or their general impression at this time as to what is required by the literal language of the treaty. In this connection there is one allusion in Sir Richard Pakenham's memorandum to which I think it right to call your special attention. It is the reference which he makes to his final instructions from Lord Aberdeen, dated May 18th, 1846, and describing the boundary line which he was authorized to propose to Mr. Buchanan. These instructions were shown by Lord Napier to Mr. Campbell, and according to his clear recollection, the description quoted by Sir Richard Pakenham was followed in the despatch by these words: "thus giving to Great Britain the whole

of Vancouver's Island and its harbors." This places beyond controversy the object which was intended by deflecting the treaty boundary south of the parallel of  $49^{\circ}$ , and ought to have great weight, undoubtedly, in determining the true channel from the point of deflection to the Straits of Fuca.

During the discussion of the subject by the joint commissioners some critical objections, I am aware, were made by Captain Prevost to the adoption of the Canal de Haro as the treaty channel; but these were so fully answered by Mr. Campbell, whose whole argument, indeed, is marked both by ability and research, that I do not think it necessary now to review them. One of them, which distinguished between the separation of the continent from the island and that of the island from the continent, has been set at rest by the testimony of the British negotiators, in favor of a middle channel of the straits, and in exclusion of the channel nearest to the continent. Even were this otherwise, I confess my inability to attach importance to the distinction upon which Captain Prevost thought it his duty to dwell at some length. Where a separation of two objects from each other is to be described, it seems to me quite immaterial which of them is placed first in the words of the description.

Another of these objections, which were discussed by the commissioners, has been thought worthy of a place in the despatch of Lord John Russell. "If the boundary line," his lordship contends, "had been intended to pass through the Haro Channel, the treaty must have been otherwise worded. The Haro Channel could not have been regarded or described as a portion of the channel commencing with the Gulf of Georgia, for it is neither the channel discovered by Vancouver, nor is it in regard to its general configuration a continuation in a southerly direction of the Gulf of Georgia." It is a sufficient answer to this objection that there is nothing said in the treaty either of the Gulf of Georgia or of the Straits of Vancouver, and that the objection, therefore, assumes the whole question in dispute. Undoubtedly there were many inaccuracies upon the maps of that region which existed in 1846, but since the very map of Vancouver—which his lordship claims was the only map then before the British negotiators—described the whole space between Vancouver's Island and the continent as a part of the entire body of water which he calls the Gulf of Georgia, I do not see why the Canal de Haro is not just as much a continuation of that gulf as the Straits of Rosario; and if either of the channels in this space is to be excluded from a participation in the gulf, it would be quite extraordinary that the broadest and best of them should be the one selected for this exclusion. Equally extraordinary is it that the Canal de Haro should be regarded as not running in a southerly direction to the Straits of Fuca, because it sometimes inclines to the west, while no such objection is thought to apply to the channel of Rosario, although this channel inclines for a long distance to the east, and cannot properly be said to flow into the Straits of Fuca at all. The truth is that the word "southerly" was used in no such restricted sense as that contemplated by this objection, but only to designate the general direction from the point of deflection on the line of forty-nine to the ocean. The language is, "through the middle of said channel and of Fuca's Straits to the ocean." That the term "southerly," moreover, was not deemed inapplicable to the Canal de Haro by those who assisted in giving effect to the treaty, is quite evident from the language already quoted from Colonel Benton, who describes the treaty line as "turning *south*, through the Channel de Haro, to the Straits of Fuca."

"This channel, however," it is said by his lordship, "was not at that time known (at all events, by Her Majesty's government) to be navigable for shipping, but on the contrary it was supposed to be a dangerous, if not an unnavigable strait." At this statement of his lordship I can only express my great surprise, because this channel had been discovered as early as 1798, was distinctly marked on every considerable chart of that region which existed in 1846, had been formally examined by Captain Wilkes in his Exploring Expedition, and had been particularly de-

scribed by De Mofras as the easiest channel between Vancouver's Island and the continent. I am at a loss to understand, moreover, for what purpose this erroneous opinion, which is said to have been entertained by Her Majesty's government, is mentioned by his lordship. If it is intended to be claimed that the Canal de Haro was set aside by the British negotiators as the treaty line, because they believed it to be unnavigable and dangerous, it is only necessary to oppose to this claim the testimony of the negotiators themselves, both of whom declare that neither of the channels between Vancouver's Island and the continent was, within their recollection, the subject of consideration in 1846, and both of whom seem to have no other resort for the meaning of the treaty but the language of the treaty itself. Whatever may have been the view entertained of it, however, by the British government, it is quite certain now that it is, on the whole, the best channel within the space in question, while from the point of deflection on the forty-ninth parallel to the Straits of Fuca it is, by very far, also the shortest passage. Even, therefore, if it were to be conceded that the channel of the treaty is an impossible one, the Canal de Haro would seem to be pointed out, by its position and character, as the best line of agreement which could possibly be selected. The Douglas Channel, which is suggested by Lord John Russell, is admitted, (on the contrary,) to be an inferior channel, scarcely capable of navigation, except for steamers, and is chiefly recommended for adoption because it would leave the island of San Juan to Great Britain. In this point of view it is urged with much earnestness by his lordship, upon a consideration of what is alleged to be the great importance of the island to Great Britain, and its comparative worthlessness to the United States. This consideration seems to be pressed, moreover, with the greater confidence because his lordship seems to think that it was under the influence of a similar argument that Great Britain yielded to this government, both in 1842 and 1846, the larger portion of the territory which on each of those occasions was in dispute between the two countries. There may be occasions, doubtless, where this argument of mutual convenience would be entitled to much weight, and on every such occasion there is no government which would be more likely to do justice to it than the government of the United States. I know of nothing, however, in the present case which brings it properly within this rule. His lordship, indeed, says that much importance is attached to the retention of the island by the British colonial authorities and by Her Majesty's government, but no reason is given for this by his lordship, and I am quite unable to understand by what process it is that he has reached the conclusion that the island is only valuable to Great Britain. Its limited agricultural resources and its harbors might certainly be of equal interest to either country, and since both governments hold important possessions in its neighborhood its value in a military point of view cannot fairly be overlooked by either of them.

This whole argument from mutual convenience, however, can only be entitled to weight where there is no possible mode of agreeing upon title, and since the President entertains a strong conviction that the American title to the island of San Juan can be clearly maintained under the treaty of 1846, it is unnecessary to pursue the discussion upon this point.

. But if this were otherwise, and the argument of relative importance was fairly within the case, it could possibly derive no aid from the considerations which have been presented in connection with the treaties of 1842 and 1846. Under the latter treaty, as you are aware, a large tract of territory was surrendered to Great Britain for the sake of preserving friendly relations between the two countries, which, in the deliberate judgment of this government, was a rightful possession of the United States, and this marked exhibition of its regard for peace and conciliatory spirit towards Great Britain cannot be justly employed now as a precedent for another cession in the same region. A similar exhibition was made by the United States in the treaty of 1842, and this example has



been rendered peculiarly marked, because at this time there can be no doubt whatever that the whole claim of the United States, on that occasion, was just and valid. Within a year after the treaty of Washington was concluded, it was stated in Parliament by Sir Robert Peel, and the disclosure was then for the first time made, that there was in the library of King George III. (which had been given to the British Museum) a copy of Mitchell's map in which the boundary, as delineated, "follows exactly the line claimed by the United States." Mr. Everett, who was then our minister in London, took the earliest opportunity to examine it, and in a statement recently published on the subject, he says:

On four places upon that line are written the words, in a strong, bold hand, "the boundary as described by Mr. Oswald." There is documentary proof that Mr. Oswald sent the map used by him in negotiating the treaty to King George III., for his information, and Lord Brougham stated in his place in the house of peers that the words four times repeated in different parts of the line were, in his opinion, written by the King himself. The boundary is marked in the most distinct and skilful manner, from the St. Croix all round to the St. Mary's, and is precisely that which has always been claimed by us. There is every reason to believe that this is the identical copy of Mitchell's map officially used by the negotiators, and sent by Mr. Oswald, as we learn from Dr. Franklin, to England. Sir Robert Peel informed me that it was unknown to him until after the treaty, and Lord Aberdeen and Lord Ashburton gave me the same assurance. It was well known, however, to the agent employed under Lord Melbourne's administration, in maintaining the British claim, and who was foremost in vilifying Mr. Webster for concealing the red line map.

It is quite obvious from the facts in this statement, which you are aware were made the subject of comment in the American Senate at the time of their development, that the whole concession of territory which was made by the treaty of Washington was made by the United States.

The argument to be drawn from both the cases thus cited by Lord John Russell, is a conclusive demonstration of that good will and friendly disposition which have always characterized the intercourse of this government with that of Great Britain, and which I trust, upon all proper occasions, will still continue to exert their influence. I have thus presented, for the first time since the report of the commissioners was made to their respective governments, the views of the President with respect to it. I have done this with great frankness, but in a spirit, I trust, of candor and moderation, and with an earnest desire, I am sure, for an early and satisfactory adjustment of the question at issue. If I have not dwelt at length upon the particular proposal made by Lord John Russell, this has only been because the President, in view of his own strong convictions on the subject, still entertains the hope that the treaty itself may be found sufficient for the parties to it, and that there may be no necessity, therefore, for seeking a line outside of it. You will present these views to Her Majesty's government in that same conciliatory spirit which in the despatch of Lord John Russell is urged upon Lord Lyons, and you will enforce them with such appropriate arguments as may occur to you, and you may find it suitable and convenient to present.

You will also read this despatch to Lord John Russell, and leave with him a copy of it.

I am, sir, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

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No. 16.

*Lord Lyons to Mr. Cass.*

WASHINGTON, October 24, 1859.

SIR: I beg to acknowledge the receipt of the note, dated the day before yesterday, which you have done me the honor to address to me, with regard to the recent occupation of the island of San Juan by United States troops. I did

not fail to transmit to Her Majesty's government reports of the conversations which I had the honor to hold with you upon this subject, and I will now hasten to communicate to them copies of your note and its enclosures.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

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No. 17.

*Mr. Cass to Mr. Dallas.*

No. 210.]

DEPARTMENT OF STATE,

*Washington, October 24, 1859.*

SIR: I transmit herewith, for your information, a copy of a note addressed by me to Lord Lyons on the 22d instant, in relation to the occupation of the island of San Juan by United States troops, and also a copy of my letter to Governor Gholson, of Washington Territory, of the 15th ultimo, upon the same subject. These, together with the papers accompanying my Nos. 195 and 196, of the 22d and 24th September, respectively, will fully indicate to you the course of your government on this subject.

I am, sir, very respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

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No. 18.

*Lord Russell to Lord Lyons.*

FOREIGN OFFICE, *November 29, 1859.*

MY LORD: I have received from Mr. Dallas a note from General Cass to him, dated the 20th ultimo, on the subject of the disputed territory of San Juan.

That despatch has been the subject of serious consideration by Her Majesty's government, and I hope, in the course of a week or ten days, to be able to send you an answer to it.

In the mean time I wish you to remove, if possible, an unfavorable impression from the President's mind with respect to a declaration contained in my despatch of the 24th of August.

That declaration, which was to the effect "that no settlement of the question will be accepted by her Majesty's government which does not provide for the island of San Juan being reserved to the British Crown," appears to have given rise to some misconception.

When the meaning of a treaty is, in the opinion of one of the parties, clearly in favor of the interpretation it has adopted, but the interests at stake are unimportant, the point in dispute may be willingly yielded for the sake of peace and good neighborhood. But when the meaning is in the opinion of one of the parties clearly in their favor, and the interests at stake are at the same time highly important, a concession which would involve both an evident right and a valuable interest, can hardly be expected.

Such was the sense in which I wrote that we could not accept a settlement which would deprive the British Crown of the island of San Juan. The right to the sovereignty of that island is, in the opinion of Her Majesty's government,



evident on the face of the treaty ; the importance of that island to the security of Her Majesty's possessions in Vancouver's Island and British Columbia is as well known to the citizens of the United States as to the Queen's subjects in North America.

You will assure General Cass that if, in the opinion of Her Majesty's government, the United States could rightfully claim the Island of San Juan, Her Majesty would be advised to surrender it, however great, in our eyes, the importance of the position which might thus be yielded.

Or if the importance of the island, in our eyes, were trifling, although our right was, in our opinion, perfectly clear, we should be disposed to consider the matter with a view to remove every source of difference with the United States in which great interests were not involved.

Further than this Her Majesty's government can hardly be expected to go. It is in this spirit that I shall address you, as I have already intimated, upon the whole subject in dispute, and I hope to do so very shortly.

I am, &c., &c.,

J. RUSSELL.

P. S.—You will read this despatch to General Cass, and will leave with him a copy of it.

J. R.

LORD LYONS, &c., &c., &c.

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No. 19.

*Lord Russell to Lord Lyons.*

FOREIGN OFFICE, *December 16, 1859.*

MY LORD: Mr. Dallas communicated to me on the 12<sup>th</sup> ultimo the despatch from General Cass, of which I enclose a copy, in reply to the communication which, by my despatch, No. 42, of the 24<sup>th</sup> of August, you were directed to make to the government of the United States, on the subject of the water boundary between Her Majesty's possessions and those of the United State under the treaty of 1846.

Although Her Majesty's government cannot concur in the conclusions at which General Cass has arrived, they receive with satisfaction the assurance that the government of the United States reciprocate their desire that this question may be discussed between the two governments in a friendly spirit.

My instruction of the 24<sup>th</sup> of August, as your lordship is aware, was sent off from this country many days before the intelligence of General Harney's proceedings had reached Her Majesty's government; the proposal, therefore, which it contained was not made, as General Cass seems to think, in view of the seizure of San Juan by United States troops. So far was this from being the case that I cannot help saying that if that instruction had not been already on its way to Washington, when the news of General Harney's aggression became known in this country, it would have been impossible for Her Majesty's government to have acted upon their intention to propose a friendly compromise of the question in dispute, until they had learned that General Harney's proceedings had not been approved, and that matters had been restored to their former footing.

My despatch, however, was already, or shortly afterwards, in your lordship's hands, and, under the circumstances, you acted judiciously in at once communicating its contents to the United States government. On the other hand, the explanations which that government has since given, and the instructions furnished to General Scott, have relieved Her Majesty's government from all further difficulty as to pursuing this negotiation.

I have already, in my despatch No. 114, of the 29th ultimo, instructed you to explain to the United States government the sense in which I had stated, "that no settlement of the question will be accepted by Her Majesty's government which does not provide for the island of San Juan being reserved to the British Crown."

Your Lordship is aware that the question in dispute was not restricted to the island of San Juan only. The commissioners, indeed, seem to have been agreed as to the general direction which the boundary line, running westwards from the continent, should follow on reaching the centre of the Gulf of Georgia; but as to the particular course which it should take in order to arrive at the Straits of Fuca, the divergence of opinion was extreme. Captain Prevost considered that the line should be continued down the Rosario Strait. Mr. Campbell held that it should be run through the Haro Channel. The contest was not, therefore, a contest for the island of San Juan only, but it also embraced the important islands of Lopez and Orcas, and the cluster of smaller islands in their immediate neighborhood. In short, the area in dispute, was the whole archipelago lying between Rosario Strait and the Haro Channel.

In pointing out, therefore, to your Lordship that in whatever manner the question was ultimately settled, Her Majesty's government could not yield the island of San Juan, Her Majesty's government were, by implication, abandoning a large part of the territory they had claimed, and were merely insisting on the retention of an island, which, from the peculiarity of its situation, it was impossible for Her Majesty's government to cede without compromising interests of the gravest importance.

The government of the United States further takes exception to the tenor of the instructions given to the British commissioner, as limiting the free exercise of his judgment in regard to the island of San Juan.

Her Majesty's government cannot admit that a government is precluded from laying down rules for the guidance of its commissioner, or from restricting his discretionary power, within certain bounds; but the fact is, that, by the instructions with which Captain Prevost was furnished, he was authorized, in case he should be of opinion that the claims of Her Majesty's government, to consider the Rosario Strait as the channel of the treaty, could not be sustained, to adopt any other intermediate channel on which he and the United States commissioner might agree.

The government of the United States animadverts on the contingency of a disagreement between the commissioners, having been contemplated by those instructions, and alludes to Captain Prevost having been authorized to propose the very compromise which you were instructed, by my despatch, No. 42, of the 24th of August, to offer.

But it surely is not unreasonable in entering into a negotiation to contemplate the possibility of failure, and to provide for such a contingency by directing, in that case, a compromise to be proposed; and it appears to Her Majesty's government that no other inference can fairly be drawn from this circumstance, than that the British government were always ready, with a view to a good understanding with that of the United States, to waive their extreme claim, and to agree to divide between the two states the islands over which they severally claimed exclusive sovereignty.

I now pass to a consideration of the main portion of General Cass' note. There are three points of importance which the Secretary of State relies upon in support of the United States claim:

1. That the 49th parallel of north latitude was fixed by common consent as the boundary between the respective possessions of the two countries in that region.

2. That the Haro Channel was the channel which the negotiators of the treaty of 1846 had in view; and

3. That the channel described in the treaty answer to that channel.

With respect to the first point, the Secretary of State argues on the assumption that the title of the United States to the whole of the territory included between the parallel  $42^{\circ}$  and  $54^{\circ} 40'$ , north latitude, had been clear and unquestionable, and he would consequently leave it to be inferred that Great Britain holds her present possessions in that quarter, not in virtue of any right or claim which she may have previously possessed, but solely through the concessions made to her by the United States in the treaty of 1846.

Undoubtedly, the title by which Great Britain now holds British Columbia and Vancouver's Island is the same as that by which the United States possess the Oregon State and Washington Territory, viz, the treaty of 1846; but when General Cass asserts that previously to that treaty the title of the United States to the whole of the territory between the parallels of  $42^{\circ}$  and  $54^{\circ} 40'$  had been clear and unquestionable, Her Majesty's government can only reply that, in their opinion, it was the title of Great Britain to that territory which was clear and indisputable.

It would serve no good purpose, however, to reopen a question which was settled by the treaty of 1846, and I shall, therefore, only observe that the principle that both countries had claims to the disputed Territory was recognized by the convention of 1818 and 1827, and by the joint occupancy established on the failure of the attempts to effect an equitable partition of that Territory.

General Cass goes on to say that when Mr. Polk became President, in 1845, the United States government repeated the offer which the British government had previously rejected, of the parallel of  $49^{\circ}$  as the boundary, and that it further offered to make free to Great Britain any port or ports in Vancouver's Island, south of that parallel, which the British government might desire. General Cass says, truly, that the British envoy immediately rejected that offer. The words employed by Mr. Pakenham were, "that he trusted the American plenipotentiary would be prepared to offer some further proposal for the settlement of the Oregon question more consistent with fairness and equity, and with the reasonable expectation of the British government."

After dwelling upon the course taken by the United States government, with the view of maintaining its claim to the territory south of the 49th parallel, General Cass reverts to Mr. McLane's report of what passed at the interview which he had with Lord Aberdeen, on the 15th of May, 1846; and General Cass states that Mr. McLane wrote subsequently to his own government that he thought the substantial "offer" of the British government would, "probably," be, "to divide the territory by the extension of the parallel of  $49^{\circ}$  to the sea—that is to say, the arm of the sea called Birch's Bay, thence by the Canal de Arro, and Straits of Fuca to the ocean."

General Cass goes on to say that Mr. Benton spoke of the Canal de Haro, in the Senate, as the channel which had been agreed upon; and that Mr. Buchanan, who signed the treaty, was equally explicit in his understanding of that part of it which relates to the water boundary. And he further refers to the despatch of Lord Aberdeen which accompanied the final draught of the treaty, "as placing beyond controversy the object which was intended by deflecting the treaty boundary south of the parallel of  $49^{\circ}$ ."

As General Cass has alluded to Lord Aberdeen's despatch, I shall proceed to quote, not an isolated expression such as that which Mr. Campbell was able to repeat from his recollection of what was told him by Lord Napier, but a full extract of that portion of Lord Aberdeen's despatch which deals with the question of the 49th parallel:

The boundary [said Lord Aberdeen] having been fixed by the convention of 1818, between the possessions of Great Britain and the United States, and the line of demarcation having been carried along the 49th parallel of latitude, for a distance of 800 or 1,000 miles, through an unfrequented and unknown country, from the Lake of the Woods to the Rocky Mountains, it appeared to the government of the United States that it was a natural and

reasonable suggestion that this line should be continued along the same parallel for about half this distance, and through a country as little known or frequented, from the Rocky Mountains to the sea. And, indeed, with reference to such a country, the extension of any line of boundary already fixed might equally have been suggested, whether it had been carried along the 49th or any other parallel of latitude.

On the other hand, however, it may justly be observed that any division of territory, in which both parties possess equal rights, ought to proceed on a principle of mutual convenience, rather than on the adherence to an imaginary geographical line; and, in this respect, it must be confessed that the boundary thus proposed would be manifestly defective. It would exclude us from every commodious and accessible harbor on the coast; it would deprive us of our long-established means of water communication with the interior for the prosecution of our trade; and it would interfere with the possessions of British colonists resident in a district in which it is believed that scarcely an American citizen, as a settler, has ever set his foot.

You will accordingly propose to the American Secretary of State that the line of demarcation should be continued along from the 49th parallel, from the Rocky Mountains to the sea-coast, and from thence, in a southerly direction, through the centre of King George's Sound, and the Straits Juan de Fuca, to the Pacific Ocean, leaving the whole of Vancouver's Island, with its ports and harbors, in the possession of Great Britain.

In a separate despatch, of the same date, Lord Aberdeen enclosed to Mr. Pakenham a draught of the treaty of 1846, which was accepted, as is stated by General Cass, by the United States government, without alteration.

General Cass will perceive from the extract which I have quoted above from Lord Aberdeen's despatch, that Lord Aberdeen specified King George's Sound as the channel down which the treaty boundary was to run. What Lord Aberdeen meant by King George's Sound may be clearly inferred from an extract which I shall quote from a letter addressed to him, at that time, by Sir John Pelly, the then governor of the Hudson's Bay Company, giving a summary of a conversation which he had held with Lord Aberdeen on the 16th of May, namely, two days before the date of Lord Aberdeen's despatch to Mr. Pakenham :

I have been considering the subject on which I had the honor of conversing with your lordship on Saturday last, and feeling that, in the multiplicity of business which comes before your lordship, some parts may have been overlooked, or that I may not have been sufficiently explicit, I have thought it advisable to trouble you with a few lines.

In the first place, I assume that the 49th degree of latitude, from its present terminus, will be continued across the continent to the waters known as the Gulf of Georgia, and be the line of demarcation of the continent between Great Britain and the United States.

The next question on which the government of the two countries will have to decide will be as to the islands abutting on and in the Gulf of Georgia, viz: one Vancouver Island, intersected by the parallel of 49°, and others which are wholly on the south of that parallel. With respect to the former, I think upon the principle of mutual convenience, (and which I think should form the foundation of the treaty,) Great Britain is entitled to the harbor on its southeast end, being the *only* good one, those in Puget Sound being given up to the United States; that with respect to the other islands, the water demarkation line should be from the centre of the water in the Gulf of Georgia in the 49th degree along the line colored red, as navigable in the chart made by Vancouver, till it reaches a line drawn through the centre of the Straits of Juan de Fuca. The only objection to this is giving to the United States the valuable island of Whidbey; but I do not see how this can be avoided in an amicable adjustment.

No inference can be fairly drawn from Lord Aberdeen's silence on the subject of the islands of the archipelago than that allusion was made only to the broad geographical features, the mention of which was suffered to be sufficient for the matter under discussion.

It is to be observed, moreover, that Lord Aberdeen was fully alive to the importance of securing access to the British possessions, and that he declined accordingly to accept a boundary "which would exclude us from every commodious and accessible harbor on the coast, and which would deprive us of our long established means of water communication with the interior," stipulations which the British government felt that it was entitled to insist upon, in consideration of the vast extent of territory, including the valley of the Columbia, and a valuable sea-coast, which it was prepared to surrender to the United States, in order to arrive at an amicable adjustment of the question in dispute between the two countries.

Having, I trust, sufficiently shown the intentions of the British government as regards the water boundary when they made the proposal which was adopted in the treaty, I shall advert to Mr. Crampton's report of what passed between him and Mr. Buchanan, in January, 1848, as showing, first, that the government of the United States has long been aware that its claim to the Haro Channel as the boundary of the treaty was not admitted by Her Majesty's government; and, secondly, that the Secretary of State of the United States, who signed the treaty of 1846, did not at that time contend that the treaty gave to Great Britain anything more than Vancouver's Island.

Mr. Crampton on that occasion had stated to Mr. Buchanan the reason which induced the British government to maintain that the Rosario Strait was the channel spoken of in the treaty, and he accordingly suggested that the instructions to the commissioners to be appointed for marking out the boundary should be drawn up on the assumption that the line was to be run down that strait.

Mr. Crampton reported that Mr. Buchanan, "speaking of the word 'channel' as employed in the convention of 1846, observed that he himself, and he presumed Mr. Pakenham, in negotiating and signing that convention, had always conceived 'channel' to mean the main navigable channel, wherever situated "

After some further remarks Mr. Buchanan suggested that the point should be left for decision by the commissioners.

If Mr. Buchanan was of opinion that the channel spoken of in the treaty was the "main navigable channel" *wherever situated*, and if that question was to be decided by commissioners, how can it be contended that the United States government understood the treaty as giving to Great Britain nothing beyond Vancouver's Island? But General Cass, in his anxiety to prove that the Rosario Strait is not the channel of the treaty, asserts that it cannot properly be said to flow into the Straits of Fuca at all.

I must confess myself unable to comprehend what General Cass means by that assertion. Surely he cannot desire to confine the appellation of "Straits of Fuca" to the mere point at which those straits communicate with the Pacific? I can hardly imagine that such a proposition can have been seriously entertained by General Cass, and the less so, because General Cass cannot be ignorant that the appellation of Strait of Fuca has, by one writer at least, and that one an American writer, namely Greenhow, been applied to the whole of the water space separating Vancouver's Island from the continent, between the 48th and 50th parallels of latitude.

General Cass expresses surprise because I said in my former despatch that the British government, in 1846, believed the Haro Channel to be a dangerous passage, and he adds that that channel had been examined by Captain Wilkes while on his Exploring Expedition. Now Her Majesty's government never intended to assert that the Haro Channel had on no occasion, before 1846, been visited by any mariner. What they meant to convey is, that before 1846, the Rosario Strait, and not the Canal de Haro, was the channel ordinarily used by shipping; and they continue to maintain that the channel now known as Rosario Strait had always been regarded as a continuation of the broad space of water called at the present day the Gulf of Georgia, whereas the Canal de Haro was looked upon as an independent channel. The names "Gulf of Georgia" and "Canal de Rosario" are indeed regarded by some writers as synonymous terms. De Mofras, who has been quoted by General Cass as speaking of the Canal de Haro as "le passage le plus facile," adds later on, "dans cette partie" (that is to say at the 50th parallel) "le bras qui sépare le continent de l'île de Quadra et Vancouver acquiert une largeur de quatre à sept lieues. Les Espagnols l'appelèrent Canal del Rosario; mais Vancouver eut soin de changer ce nom en celui de Golfe de Georgie."

Again Greenhow, who cannot be suspected of any leaning towards the



British claim, unconsciously gave strong testimony in favor of that claim. When speaking of the meeting of the British and Spanish exploring vessels in 1792, in the middle of the gulf, and of their having agreed to unite their labors, he says: "During this time they surveyed the shores of the great gulf above mentioned, called by the Spanish 'Canal del Rosario,' and by the English *the Gulf of Georgia, which extended northwestward as far as the 50th degree of latitude.*"

But General Cass observes that the Gulf of Georgia is not mentioned in the treaty. This is no doubt true; but Lord Aberdeen, in the despatch which accompanied the draught of treaty, instructed Mr. Pakenham to propose that the line should be run down the centre of the Gulf of Georgia, called by him "King George's Sound;" and as I have already shown that the terms "Gulf of Georgia," and "Canal de Rosario," have been indifferently applied to one and the same channel, a clear indication is afforded by Lord Aberdeen's despatch of the direction which he intended that the boundary line should take

At all events we may appeal to Lord Aberdeen's despatch as giving a more satisfactory and complete key to the meaning of the term "channel," spoken of in the treaty, than the despatch of Mr. McLane, which refers to "Birch's Bay," and the "Canal de Arro," neither of which are mentioned in the treaty any more than the Gulf of Georgia.

Mr. McLane's despatch shows what he thought Lord Aberdeen would probably instruct Mr. Pakenham to propose; Lord Aberdeen's despatch proves what he actually did instruct Mr. Pakenham to propose.

General Cass refers, moreover, to Sir R. Pakenham's memorandum as evidence against the British claim; but your lordship will observe that Sir R. Pakenham's object in that paper was not so much to enter upon the question, as to what were the intentions of the negotiators of the treaty, as to offer an opinion as to how far, with the information since acquired by the two governments, the boundary line could, according to the literal words of the treaty, be carried down either the Canal de Haro, or the channel of Vancouver.

Sir R. Pakenham seems to think that the conditions of the treaty would obtain their most exact fulfilment if the line were carried through the Douglas Channel. According to General Cass, Sir R. Pakenham adds that he has no recollection whatever that any other channel was designated in the discussion than that described in the language of the treaty.

I must beg leave, however, to correct General Cass upon this point. What Sir R. Pakenham adds is, that the treaty was signed and ratified "without any intimation to us whatever, on the part of the United States government, as to the particular direction to be given *to the line* of boundary contemplated by article first of the treaty."

These observations suffice to show that the arguments which General Cass has drawn from the supposed intentions of the negotiators of the treaty, can be met by arguments of at least equal weight on our side; but, however we may be disposed to rely on the instructions of Lord Aberdeen and the letter of Sir John Pelly, and the United States on the statements of Mr. McLane and Mr. Benton, it must be confessed on both sides that the interpretation of one party, without the expressed assent of the other, goes but very little way to remove the difficulty.

Had Lord Aberdeen and Sir John Pelly obtained the consent of the United States government to their views in favor of the channel marked as navigable by Vancouver, or had Mr. McLane and Mr. Senator Benton obtained the assent of Lord Aberdeen and Mr. Pakenham to their opinion that Haro's Strait was the channel intended by the treaty, such agreement would have been conclusive. But separate interpretations, not communicated to the other party to a treaty, cannot be taken as decisive in a disputed question.

We are forced, therefore, to recur to the words of the treaty, and Her Majes-



ty's government are ready to disavow any intention of "abandoning the treaty line for a line purely arbitrary."

"The treaty provides," General Cass truly says, "that the boundary line shall be continued along the said 49th parallel of north latitude, to the middle of the channel which separates the continent from Vancouver's Island." Let us stop here; we have here something fixed, namely, a point on the 49th parallel of latitude, and half way between the continent and Vancouver's Island. The article proceeds, "and thence southerly through the middle of said channel." Here the meaning of the negotiators appears clear; the boundary line is to go "through the middle of the said channel."

If the whole space between the continent and Vancouver's Island had been occupied by water, there can be no doubt that the words "middle of the said channel" would have been interpreted to mean, drawing the line along the middle of the channel. When you say along the middle of the road, you do not mean one side of the road. When you say along the middle of the street, you do not mean one side of the street.

But it happens that the channel is not an uninterrupted space of water, but is intersected by various islands; hence the contested interpretation—one side contending for Haro's Channel, and the other for Vancouver's or the Rosario Channel.

I need not refer further to the argument by which each nation has supported its views. But shall we not approach nearer to the spirit of the treaty, if, as Sir R. Pakenham suggests, we draw a line equidistant from the continent and Vancouver's island, and prolong it till we reach "Fuca's Straits and the Pacific ocean," words which complete the description of the boundary?

Or, again, if it would be inconvenient to both nations to have five or six islands partially divided between them, would it not be fair and expedient to look for a channel which shall be the nearest approximation to that line, midway between the continent and the island of Vancouver, which is designated by the treaty? And if Douglas's Channel fulfils this condition, is it not the line most in accordance with the treaty, as well as with general policy and convenience?

In treaties by which a water or river boundary is established between two states—as, for instance, in the treaty between Great Britain and the United States of 1783—the dividing line is usually run along the mid-channel or "Thalweg," leaving to one state or the other any island which may be in the channel, according as these islands lie on the one side or on the other of the dividing boundary, but seldom if ever mentioning such islands. The same principle may be applied to the treaty of 1846. The treaty continues the dividing line of the 49th parallel to a point in the water half way between the mainland and Vancouver's Island, and it says, in effect, that the boundary line shall be continued southward, along the middle of that channel—that is to say, along the middle of the space which lies between the continent and Vancouver's Island—till it reaches the Straits of Fuca.

General Cass indeed observes, that the way selected should be "the shortest and the best way;" that the Canal de Haro is "the broadest, the deepest, and the shortest route," by which the Straits of Fuca can be reached from the point of deflection. But the treaty says nothing of the "best" way, nor of the "broadest," nor of the "deepest," nor of the "shortest" route. The reason is obvious. The object was not to enable vessels to reach the Pacific Ocean by the shortest route—that object is provided for by the other part of the article, which provides that the navigation of the whole of the said channel and straits south of the 49th parallel of north latitude shall remain free and open to both parties. The object in tracing the boundary was to give each country an equal share of the channel, which ran between their possessions, and therefore the line was directed to be drawn midway and "through the middle of the channel."

In this case it is General Cass who deserts the line of the treaty for an "arbitrary line," and that arbitrary line selected for no reason found in the treaty, deduced from the treaty, or applicable to the treaty.

If I notice General Cass's allusion to the letters which he says Mr. Bancroft repeatedly wrote to Lord Palmerston in 1848, it is only for the purpose of placing on record what, no doubt, Mr. Bancroft duly reported to his government at the time, viz., that Lord Palmerston gave Mr. Bancroft distinctly to understand that the British government did not acquiesce in the pretensions of the United States that the boundary line should be run down the Haro Channel. But it is remarkable that it was in that very year 1848 that the United States Senate gave orders for printing twenty thousand copies of Frémont's map, which, as well as the map prepared by the Surveyor General of the State of Oregon in October, 1852, carries the boundary line through the Rosario Strait. This is a circumstance of the greatest importance in determining the meaning of the treaty. General Cass has taken this occasion to assert that the whole concession of territory under the treaty of Washington, of the 9th of August, 1842, was made by the United States, and he has thought to bring a charge against the British government in connection with that treaty.

I am convinced it is best on all accounts that I should not follow General Cass in his endeavor to re-open that question. What Great Britain gave up by the treaty of 1842, for the sake of peace, is so well known that any renewed controversy on the subject would be out of place. Her Majesty's government have been animated by a like spirit in the course they have pursued with regard to the present question; and if they have maintained the claim of Great Britain to the possession of San Juan, they have done so because they are convinced that the title of the British Crown to that island is sound, and because the possession of the island by Great Britain is necessary to secure a safe passage to the British possessions on the mainland.

General Cass says that no government would be more likely than the government of the United States to do justice to the agreement of mutual convenience, but he says he knows of nothing which brings the case of San Juan properly within that rule. The examination of the map, however, at once proves that this rule is peculiarly applicable to the present case.

There are now shown to be two considerable channels, the Canal de Haro on the one side, which passes close to the British territory of Vancouver's Island, and the Rosario Channel on the other, which passes equally near to the American possessions on the mainland. If the possession of San Juan would give to Great Britain the command of the Haro Channel, the possession of the adjoining islands of Orcas and Lopez would equally give to the United States the command of the Rosario Channel, so that each country would command a safe highway to its possessions, free from all interference on the part of the other country.

It is obvious that this would not be the case if San Juan was in the possession of the United States, who would then hold the command of both channels.

San Juan is therefore a defensive position if in the hands of Great Britain; it is an aggressive position if in the hands of the United States. The United States may fairly be called upon to renounce aggression; but Great Britain can hardly be expected to abandon defence.

I have thus endeavored to meet the argument of General Cass, in a spirit, I trust, of calm deliberation, such as befits two governments who are sincerely desirous of arriving at a just solution of a question at issue between them. Her Majesty's government recognize and appreciate the good faith and the regard for peaceful relations which have dictated the instructions to General Scott, and relying on the friendly feelings of the American people, and on the earnest desire for peace which have been so often expressed by those in power in the United States, Her Majesty's government will not permit themselves to believe

that that government will decline the conciliatory offer of the British government which your lordship is hereby instructed to repeat.

You will, without loss of time, read this despatch to General Cass, and leave with him a copy of it.

I am, &c., &c.,

J. RUSSELL.

Lord LYONS.



No. 20.

*Mr. Cass to Mr. Dallas.*

No. 231.]

DEPARTMENT OF STATE.

*Washington, February 4, 1860.*

SIR: You have already received a copy of Lord John Russell's note to Lord Lyons, dated December 16, in reference to the San Juan controversy, and I now enclose a copy of a previous note to Lord Lyons, dated November 29, which I think has not been transmitted to you.

From this latter note, and especially from the conversation of Lord Lyons at the time it was left with me, I had little doubt that the reply of Lord John Russell to my despatch of the 20th October would contain such a withdrawal or explanation in reference to that part of his previous note to which I had felt obliged to take exception, as would relieve the discussion from any other embarrassment than that which necessarily belongs to a controverted claim. This expectation, however, has been wholly disappointed; and the last note of Lord John Russell—that of December 16—instead of containing any withdrawal of the objectionable declaration referred to, distinctly reaffirms it, while the only explanation offered is, that inasmuch as the island is important to Great Britain, therefore Great Britain means never to concede it. Since the abandonment of Her Majesty's government of the Rosario Channel, as the channel intended by the treaty, and the intimation now made by Lord John Russell that the Douglass Channel "is the line most in accordance with the treaty, as well as with general policy and convenience," the island of San Juan may fairly be regarded as the only subject now in controversy under the terms of that convention. To declare, therefore, that in no event will this island be conceded to the United States, is, in effect, to close the discussion; because, as I stated in my note of October 20, this government cannot permit itself to negotiate with Great Britain or any other government, except upon terms of perfect equality, and there is surely no equality in a discussion where the claim of the one party is excluded in advance, and the only adjustment possible is that claimed by the opposite party. If, therefore, I decline, under existing circumstances, to pursue the discussion of the subject in question, and to present these considerations in reply to Lord John Russell's note, with which otherwise I should be glad to meet some of his lordship's suggestions, this is not from any reluctance to deal fairly with the issues presented, and still less from any want of friendly disposition towards Great Britain, but only because no other course would be consistent, in the opinion of the President, with that just respect which the government owes to its own dignity and character. Her Majesty's government, I think, will fully appreciate this avowal, if it will consider what would be the course of Great Britain were the positions of the two governments reversed, and were the United States to assert in the very threshold of a discussion that whatever might be the course of the argument or the consequences of the determination, it would never yield to Great Britain the subject in dispute. Surely, Her Majesty's government would never think of entering into an argument which it was thus told

in advance could produce no possible effect upon the practical adjustment of the controversy.

I am aware that Lord John Russell endeavors to justify the declaration referred to by urging the great value of the island to Great Britain, and its inferior importance to the United States; but even if his lordship's views in respect to this comparative value of the island were correct, I do not see how they can have any proper influence upon the decision of the question. That question is a question of title under the treaty of 1846. If the island belongs to Great Britain she is entitled to hold it whether it is valuable or not; and if it belongs to the United States this government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain. I am far from admitting, however, the justice of his lordship's views concerning the great importance of the island to Great Britain, either for "aggressive" or "defensive" purposes. If I felt myself at liberty to pursue the discussion, it would be easy to show that Lord John Russell has greatly overrated its military value. From the best information which I can obtain, it does not, as his lordship intimates, command the Canal de Haro. The surveys of that region show that the narrowest part of this water communication is about seven miles wide, while the general width is still greater. The shores on each side are bold and the water deep—in some places more than one hundred fathoms—so that vessels may sail within a short distance of the land along its whole extent. No fortification erected upon the coast of this canal can ever control its navigation; and therefore the great reason upon which Lord John Russell relies to justify the preliminary declaration to which I have adverted, seems to be grounded wholly upon a misconception of fact.

There are other misconceptions in the note of his lordship, of which, under other circumstances, I should be glad to suggest the necessary corrections. His lordship, for example, attaches "the greatest importance" to the order of the Senate in 1848 for printing twenty thousand copies of Frémont's map of Oregon and California, on which there appears to be a line of demarcation running down the Straits of Rosario, which his lordship appears to think shows conclusively the judgment of the Senate at that time as to the true water boundary. This error of his lordship arises from an entire misapprehension of the practice of the Congress of the United States in ordering the printing of public documents. These documents are printed, for the most part, not only without any indorsement of their contents by either the House or the Senate, but generally also without any detailed examination of them, and when they come from a public officer, or are prepared in pursuance of a previous resolve, almost as a matter of course. Nothing can be more incorrect, therefore, than to suppose that the order of the Senate to print the map referred to implies any opinion whatever of that body in favor of its accuracy.

But I am prevented from pursuing these considerations because, as I have already stated, the discussion has been practically foreclosed by the declaration of Lord John Russell, that it can under no circumstances affect the British claim. The President readily concedes the sincerity with which Her Majesty's government maintains this claim, but the convictions of the government of the United States in favor of its own title to the island of San Juan are entitled surely to equal respect, and he cannot permit this difference of opinion between the two governments to be determined by one of them, or consent that what he regards as the just rights of the United States shall be yielded to any assertion of title by another power, no matter how peremptorily made or earnestly persisted in. Since, therefore, Lord John Russell repeats with great frankness his original declaration, that "no settlement of the question will be accepted by Her Majesty's government which does not provide for the island of San Juan being reserved to the British crown," I am directed by the President to state with equal frankness that the United States will, under all circumstances, maintain their

right to the island in controversy until the question of title to it shall be determined by some amicable arrangement between the parties.

You will read this despatch to Lord John Russell, and leave with him a copy of it.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., &c.

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No. 21.

No. 62.]

*Lord Russell to Lord Lyons.*

FOREIGN OFFICE, *March 9, 1860.*

MY LORD: I enclose a copy of a note from General Cass respecting the question of San Juan, communicated to me by Mr. Dallas, on the 2d instant.

It seems that the government of the United States continues to take exception to the declaration contained in my despatch, No. 42, of the 24th of August, and brings forward that declaration as the ground for declining to continue the discussion.

Your lordship has already, under the instructions contained in my despatches, Nos. 114 and 123, of the 29th of November and 16th of December, endeavored, by frank and conciliatory explanation, to remove from the minds of the President and his ministers the misconception to which that declaration appears to have given rise.

That explanation was offered by Her Majesty's government in all sincerity and candor, and your lordship will, I doubt not, share the disappointment of Her Majesty's government that it has not been accepted as satisfactory.

I can only now repeat, and your lordship will earnestly impress this upon General Cass, that the United States government has entirely misconceived the purport of my declaration.

Her Majesty's government readily subscribe to the *dictum* of General Cass that, "if the island belongs to Great Britain, she is entitled to hold it, whether valuable or not; and, if it belongs to the United States, the United States government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain."

But Her Majesty's government maintain that the island of San Juan does not belong to the United States.

Your lordship will recollect that our proposal to make a compromise was declared to be without prejudice to our own claim to the Rosario Channel if that compromise were rejected.

Her Majesty's government maintain that either the Canal de Rosario or the Douglass Channel might be held to be the boundary contemplated by the treaty but that the Canal de Haro neither fulfils the intentions of the British negotiators of the treaty, nor is consistent with the words of the treaty itself.

Having given this further explanation, Her Majesty's government trust that my despatch, No. 123, of the 16th December, will be answered or its conclusions admitted by the government of the United States.

You will read this despatch to General Cass, and leave with him a copy of it.

I am, &c., &c.,

J. RUSSELL.

LORD LYONS, &c., &c. &c.



No. 22.

*Mr. Cass to Mr. Dallas.*

No. 252.]

DEPARTMENT OF STATE,

*Washington, April 23, 1860.*

SIR: I enclose a copy of a note from Lord John Russell, on the subject of the San Juan question, which was left with me by Lord Lyons, on the 28th ultimo.

In this note the United States are assured that the declaration of Lord John Russell, in his despatch of the 24th of August last, to which the President felt obliged to take exception, was not intended to convey the meaning which this government had attached to it; but that Great Britain entirely concurs with the United States that the question of title to the island of San Juan is to be determined by the provisions of the treaty, and not by the supposed value of the island, either to one party or the other; or, in other words, that, "if the island belongs to Great Britain, she is entitled to hold it, whether valuable or not; and, if it belongs to the United States, the United States government is entitled to its possession, even although it should be conceded to be of superior value to Great Britain." The obstacle growing out of the declaration referred to having thus been removed by the frank explanation of Her Majesty's government, the subject is now free from any other embarrassment than that which necessarily belongs to a controverted claim. It is only to be determined whether the island of San Juan, under the treaty of 1846, belongs to the United States or Great Britain.

In the correspondence which has already taken place on this question between the commissioners of the two governments and the governments themselves, the argument, on both sides, has been so fully presented as to leave very little to be added now. I regret, however, that what this government regards as the controlling consideration which ought to govern the construction of the boundary clause of the treaty does not appear to have engaged that serious attention from Her Majesty's government which its importance is believed to deserve. When it was shown that the parallel of 49° was the agreed boundary between the two countries, and that the deflection from it in the channel adjoining Vancouver's Island was for the sole purpose of leaving that island undivided to Great Britain, it was confidently hoped that the claim of Her Majesty's government to still other islands in the channel would be at once and forever abandoned. If the distinct object of a convention is distinctly understood, and there is no repugnance in the language used, it is surely reasonable to expect that it will not be construed by either party so as to accomplish an object entirely different. In this case there can be no reasonable doubt as to the intention of the parties upon the point referred to. It is not a case where one view was entertained by the American government and an opposite one by the British government, but the whole history of the negotiation, and all the evidence on both sides, lead inevitably to the same conclusion. If any doubt could still exist on this point, after the evidence which has already been presented, I might quote, in further support of it, the explicit testimony of Sir Robert Peel, on the 29th of June, 1846, after the treaty had been approved by both governments, and while he was engaged in explaining its provisions to the House of Commons, this distinguished statesman said: "Those who remember the local conformation of that country will understand that that which we proposed is the continuation of the 49th parallel of latitude till it strikes the Straits of Fuca; that that boundary should not be continued as a boundary across Vancouver's Island, thus depriving us of a part of Vancouver's Island, but that the middle of the channel should be the future boundary, thus leaving us in possession of the whole of Vancouver's Island, with equal right to the navi-



gation of the straits." It is quite clear from this language that Sir Robert Peel neither believed nor claimed that the deflection from the parallel of 49° had left Great Britain in possession of any other island or territory than the island of Vancouver; nor from anything which was publicly known at the time of the treaty can it be inferred that such a belief was entertained in any other quarter. It is equally true that, from that time to the present day, the construction thus given to the first article of the treaty by Sir Robert Peel has been steadily maintained by the United States. The conversation of Mr. Buchanan with Mr. Crampton, of January, 1848, to which Lord John Russell refers, constitutes no exception to this statement. If Mr. Buchanan understood the word channel in the convention to mean "the main navigable channel," as he is reported to have done by Mr. Crampton, he equally well understood that this "main navigable channel" was the Canal de Haro, which he had distinctly mentioned as the treaty channel in his private letter to Mr. McLane, to which I referred in my despatch of October 20; and if, in the same conversation, he "suggested that the point should be left for decision by the commissioners," this only indicated his entire confidence in the result of their examination, while it anticipated the actual course of this government when the commissioners were appointed. In the instructions under which Mr. Campbell entered on his duties, no restraint whatever was placed upon his judgment on this point, but he was left entirely free to determine the boundary line according to the language of the treaty. I have already had occasion to express my regret that Her Majesty's government did not feel itself at liberty to invest the British commissioner with the same discretion.

I may be pardoned for suggesting that the course of the British government has not been marked by the same consistency of claim. In the beginning of the discussion it was stated by Lord John Russell, in his despatch of August 24, 1859, that "the British commissioner was clearly of opinion that both the boundary intended by the plenipotentiaries who negotiated the treaty of 1846, and also the channel spoken of in the treaty, is the channel known as Rosario Straits, and Her Majesty's government fully share that opinion." This opinion, however, was controverted by the statement of Lord Aberdeen, which was quoted in the same despatch, who is certain that it was the intention of the treaty to adopt the mid channel of the straits as the line of demarcation, without any reference to islands; and by the *memorandum*, also, of Sir Richard Pakenham, who expressly declared that neither the Canal de Haro nor the Rosario Strait could, in his judgment, "exactly fulfil the conditions of the treaty, which, according to their liberal tenor, would require the line to be placed along the middle of the channel (meaning, I presume, the whole intervening space) which separates the continent from Vancouver's Island." The boundary, therefore, claimed by Lord John Russell and that described by the British negotiators of the treaty were two entirely different lines, the one being the Straits of Rosario, and the other a line of demarcation drawn midway between Vancouver's Island and the continent, without reference to any intervening islands. In his despatch to Lord Lyons of December 16, Lord John Russell appears substantially to abandon the former of these lines, and to adopt the line suggested by Lord Aberdeen and Sir Richard Pakenham, while in his last despatch on this subject, that of the 9th ultimo, he maintains that "either the Canal de Rosario or the Douglas Channel might be held to be the boundary contemplated by the treaty." Thus we have presented the extraordinary case of three widely different boundaries, either of which it is claimed may be fairly regarded as the treaty boundary, while the only boundary excluded is that very boundary which was mentioned in distinct terms by Mr. McLane, Mr. Benton, and Mr. Buchanan at the time the treaty was negotiated, and which is the only one (as this government conceives) that is quite consistent with the known intention of the treaty. These three boundaries have, indeed, the single point of agreement that they all

leave to Great Britain the island of San Juan; but this can hardly relieve the inconsistency of the British claim. Two of them, the Rosario Channel and the Douglas Channel, are excluded by the concurrent testimony both of the American and British negotiators, and it is difficult to understand how they can be further insisted on by the British government. The only choice remaining, therefore, is between the Canal de Haro and the arbitrary line of demarcation, described by Mr. Pakenham. The considerations which seem to this government quite decisive in favor of the Canal de Haro were sufficiently stated in my despatch of last October, and need not be repeated here. In reference, however, to the line suggested by Mr. Pakenham, it is sufficient, perhaps, to observe that since the British government appears to have concurred with Mr. Buchanan in 1848 that the line to be chosen was the "main navigable channel" between the point of deflection and the Straits of Fuca, it can hardly contend now that this requirement is answered by adopting a boundary which passes alike over land and water, and furnishes, of course, no channel at all.

In thus alluding to the several boundaries which have been suggested by Great Britain as treaty boundaries, I do not forget that the Douglas Channel has been proposed from the beginning as a convenient *compromise*, however, upon the assumption that the Straits of Rosario are still claimed by Great Britain as the channel intended by the convention; and as this claim, for reasons which I have already referred to, can hardly now be maintained, I do not think that the British offer should any longer be considered as an offer of compromise. The whole subject in question is the island of San Juan, which is claimed on the one side by the United States, and on the other side by Great Britain; and a proposal which gives the island to Great Britain is a proposal to surrender the whole American claim, and not, in any sense of the term, a proposition to compromise. The argument, from convenience, moreover, which is so earnestly pressed by Lord John Russell, seems to me, I confess, to have very little foundation. I cannot understand why the access by Great Britain to her American possessions would be any the less easy or safe because the island of San Juan had been conceded to the United States. All the channels and the straits are equally open to both nations; and, in a military point of view, I have already shown that, from the great width of the Canal de Haro, its navigation could never be interrupted by the establishment of works on the island of San Juan. While, therefore, the President feels himself obliged to decline to adopt the Douglas Channel as the boundary of the two countries between Vancouver's Island and the continent, and to maintain the Canal de Haro as the true boundary in that quarter, which was intended by the treaty, he is glad to believe that no serious injury can be inflicted upon British interests by the adoption of the American line. It is deeply to be regretted, certainly, that the views of the two governments upon this subject are so directly opposed, but he confidently hopes, by some early arrangement, alike acceptable to both nations, this difference of opinion may yet be amicably adjusted.

You will read this despatch to Lord John Russell, and leave with him a copy of it.

I am, sir, respectfully, your obedient servant,

LEWIS CASS.

GEORGE M. DALLAS, Esq., &c., &c., *London*.

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No. 23.

*Extract of a note of the 25th of May, 1860, from Lord Lyons to Mr. Cass.*

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I am likewise directed to say that it would, in the opinion of Her Majesty's government, serve no good purpose to settle the question of San Juan, unless

this matter of the Hudson's Bay Company were settled at the same time. The British government desire to see the stipulations of the treaty of 1846 faithfully carried into effect; and they would object equally to a direct or an indirect violation of its provisions.

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### No. 24.

*Lord Lyons to Mr. Cass.*

WASHINGTON, *June* 6, 1860.

SIR : I have just received from Rear-Admiral Baynes, Commander-in-chief of Her Majesty's naval forces in the Pacific, a copy of orders issued to the commanding officer of the United States troops in San Juan, on the 10th of April last, by General Harney, and communicated by the General's direction to the officer in command of Her Majesty's troops on the same island. I do myself the honor to enclose a copy of the orders in question, and I earnestly beg that the United States government will take them immediately into consideration.

It would be superfluous to remark upon the inconsistency of the whole tenor and spirit of these orders with the satisfactory arrangement made by General Scott in November last. But there is one point to which I cannot but call the particular attention of the government of the United States.

General Harney directs the officer in command of the United States detachment to acknowledge and respect the civil jurisdiction of Washington Territory over the island of San Juan, and he goes on to say "that he is satisfied that any attempt of the British commander to ignore this right of the Territory will be followed by deplorable results which it will be out of his power to control."

I will contrast with this order the following passage taken from a letter addressed by General Scott to Governor Douglas on the 9th of November last :

In the same spirit I had earlier determined to instruct our commanding officer on the island to allow no person claiming to be a functionary of Washington Territory to interfere with any British subject residing or happening to be on the same island while it shall remain in dispute between our respective governments.

To this passage I will add an extract from the orders given by General Scott to the United States officer commanding on San Juan, and communicated in the same letter by General Scott to Governor Douglas :

The General-in-chief wishes it to be remembered that the sovereignty of the island of San Juan is still in dispute between the two governments, and, until definitively settled by them, that British subjects have equal rights with American citizens on the island.

It will no doubt be in your recollection that a copy of the letter to Governor Douglas on the 9th of November, which I have quoted, was appended to the instructions given by General Scott to the United States officer on San Juan, that a copy of it was transmitted to General Harney "for his information and guidance," by General Scott, in a letter bearing the same date, and that General Scott at the same time stated to General Harney that he "wished it to be remembered that the sovereignty of the island was still in dispute between the two governments, and, until definitively settled between them, that British subjects had equal rights with American citizens on the island."

It is unnecessary for me to say anything more to show that the recent orders of General Harney are inconsistent with the arrangement made by General Scott, approved by the President, and accepted by Her Majesty's government. Under that arrangement tranquillity had been maintained at San Juan for six months, and cordial relations had subsisted between the British and American authorities in the neighborhood. I am confident that the government of the United States

will lose not a moment in taking measures to arrest the deplorable consequences which would, indeed, be only too likely to follow any disturbance of the settlement so justly and wisely effected by General Scott.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant.

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

*Captain Pickett to Captain Bazalgette.*

CAMP PICKETT, SAN JUAN, *April 30, 1860.*

SIR: I have the honor to inform you that, in obedience to orders received from the Headquarters Department of Oregon, I have to-day relieved Captain Hunt, and assumed command of this post.

In accordance with orders emanating from the same source, I herewith enclose an extract from my letter of instructions.

With every desire that the cordial understanding existing between you and Captain Hunt shall continue to be maintained between ourselves, I am, &c.,

G. E. PICKETT,

*Captain 9th Infantry, Commanding Post.*

Captain G. BAZALGETTE,

*Royal Marines, H. B. Majesty's Troops.*

*Captain Pleasonton to Captain Pickett.*

[Extract.]

HEADQUARTERS DEPARTMENT OF OREGON,  
*Fort Vancouver, W. T., April 10, 1860.*

CAPTAIN: \* \* \* \* \* a copy of which you will furnish Captain Bazalgette for the information of Rear-Admiral Baynes.

1st. Lieutenant General Scott has left no orders or instructions with the General commanding to grant a joint military occupation of San Juan Island with British troops, neither has any authority been delegated by the government of the United States to the General to offer or accept such occupation of that island. The offer made by General Scott when in command here was not accepted by Governor Douglas at the time, and consequently concluded that transaction. No arrangement has been made since to renew it within the knowledge of the General commanding.

2d. The British authorities having submitted the assurance to General Scott that no attempt would be made by them to dislodge by force the United States troops on San Juan Island, they were permitted to land troops for similar purpose to which your command was designed in the original orders conveyed to you in July last, viz: the protection of our citizens from Indians, both native and foreign.

In connection with this service the General commanding takes occasion to present you to Admiral Baynes and the officers with whom you will be brought in contact as an officer possessing his highest confidence that nothing will be omitted in maintaining a frank and generous intercourse in all matters coming within your powers, to establish a practical solution of the present misunderstanding which shall prove honorable and satisfactory to all parties until a final settlement is attained by the two governments.

3d. Under the organic act of the Congress of the United States for the establishment of the territorial government of Washington, the first legislative assembly, in 1854, passed an act including the island of San Juan as a part of Whatcom County ; this act was duly submitted to Congress, and has not been disapproved ; it is, therefore, the law of the land. You will be obliged, consequently, to acknowledge and respect the civil jurisdiction of Washington Territory in the discharge of your duties on San Juan, and the General commanding is satisfied that any attempt of the British commander to ignore this right of the Territory will be followed by deplorable results out of his power to control.

The General commanding will inform the governor of Washington Territory that you are directed to communicate with the civil officer on the island in the investigation of all cases requiring his attention. In the event of any British interest being involved, you will notify the officer placed there by Admiral Baynes to enable him to propose some arrangement satisfactory to his instructions as well as those of the civil officer. Let it be understood, in case of disagreement of these parties, that no action is to be taken until the case has been referred to Admiral Baynes and the governor of Washington Territory, respectively.

These suggestions will be acceptable to the conditions which govern the territorial authorities of Washington, while satisfying the military obligations of the military service to their own as well as to the civil laws of the country ; and it is fair to presume they will be adopted by Admiral Baynes, since the tenor of his instructions to Captain Bazalgette is sufficiently liberal to justify this conclusion.

I remain, Captain, very respectfully, your obedient servant,

A. PLEASANTON,

*Captain 2d Dragoons, A. Asst. Adj. Genl.*

Captain G. E. PICKETT,

*Company D, 9th Infantry.*

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No. 25.

*Mr. Cass to Lord Lyons.*

DEPARTMENT OF STATE,

*Washington, June 8, 1860.*

MY LORD : I have received your lordship's communication of the 6th instant, enclosing copies of orders issued by General Harney to the commanding officer of the United States troops on the island of San Juan, dated on the 10th of April last, and communicated by the General's direction to the officer in command of Her Majesty's troops on the same island, and have lost no time in bringing the subject to the attention of the President.

I am now instructed to inform you that the arrangement entered into by General Scott in the month of October, 1859, in order to prevent any collision on the island of San Juan between the American and British authorities pending the negotiations between the two governments was strictly in pursuance of a previous arrangement which was made with Mr. Crampton by the Secretary of State of the United States in July, 1855, and met the full approval of this government. The orders of General Harney, to which his attention has been called by the note of your lordship, and which appear to be in violation of the arrangement of General Scott, have been read, therefore, by the President both with surprise and regret. It is earnestly hoped that, upon a full explanation of all the circumstances attending them, it may be found that they were not intended to bear the construction which seems naturally to belong to them, and that in



any event they will lead to no collision between the American and British authorities on the island. To prevent this as far as possible, instructions will be immediately sent to the commander of the United States troops in that region revoking the orders of General Harney, and giving full effect to the arrangement of General Scott. A strict inquiry will also be instituted into the conduct of General Harney, with a view to such measures on the subject as may be found necessary, and for this purpose he has been recalled from his command and ordered to report at Washington.

I have the honor to be, my lord, with high consideration, your lordship's obedient, humble servant,

LEWIS CASS.

Lord LYONS, &c., &c., &c.

No. 26.

*Lord Lyons to Mr. Cass.*

WASHINGTON, *June 9, 1860.*

SIR: I had yesterday the honor to receive your note of that date, in which, in reply to my communication of the day before (6th,) you were so good as to inform me that instructions would be immediately sent off revoking General Harney's order of the 10th of April last, relative to the island of San Juan, and giving full effect to the arrangement made by General Scott. I immediately transmitted a copy of this satisfactory note to Her Majesty's government, and despatched a telegram communicating the substance of it to Rear-Admiral Baynes, to be forwarded by the pony express, which will, I believe, set out from St Joseph, Missouri, to-day.

I have the honor to remain, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

No. 27.

*Lord Lyons to Mr. Cass.*

WASHINGTON, *June 14, 1860.*

SIR: It is not with any view of entering into a discussion upon the subject to which it relates that I do myself the honor to transmit to you the enclosed copy of a letter addressed to General Harney by Mr. Dallas, a director of the Hudson's Bay Company, and the company's president of council in North America. The object of Mr. Dallas in writing the letter has been to place upon record a true account of the visit made by him in July last to San Juan, which was alleged as one of the causes which induced General Harney to place a detachment of United States troops upon that island. Mr. Dallas has felt it to be due to himself, and to the company which he represents, to clear himself from the imputations upon his conduct contained in some of the papers printed among the correspondence laid before the United States Senate with the President's message of the 30th January last. Being particularly desirous that his proceedings should be represented in their true light to the President and to General



Scott, he has requested me to take measures to bring his letter to General Harney to the notice of those illustrious persons. It is in order to comply with this request, and (as I have already said) not with any view of entering into a discussion on the subject, that I have done myself the honor to communicate the letter to you.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

LYONS.

Hon. LEWIS CASS, &c., &c., &c.

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*Mr. Dallas to General Harney.*

FORT VANCOUVER, W. T., May 10, 1860.

SIR: I beg leave to address you upon the subject of the recent occupation of the San Juan Island by American troops, in which my name has been so freely and unwarrantably made use of, and to give the most unqualified contradiction to the part attributed by you and others to me as having given occasion to that act.

I can come to no other conclusion but that you were imposed upon in making and acting upon the statements contained in your letters of 7th, 8th, 25th and 29th August, to the Adjutant General, to Governor Douglas, on 6th August, to Captain Pickett on the 18th of July, and to General Scott on the 19th July.

1. Though the son-in-law of Governor Douglas, I have no connection with or influence whatever in the affairs of government, nor has he any interest directly or indirectly in the affairs of the Hudson's Bay Company. On the contrary, the respective interests under our care are rather conflicting and antagonistic.

2. It has been frequently stated that I am a member of council of Victoria. This is not the case; I hold no office, honorary or otherwise, under the Crown or the colonial government.

3. I am not a chief factor in the service of the Hudson's Bay Company, as has been stated, but a director of the company, and president of council in North America.

4. I never visited the island of San Juan in any man-of-war. My arrival there on the afternoon of the day upon which Cutler committed the trespass was purely accidental. I landed from the Company's steamer Beaver, used solely for purposes of trade, accompanied by two friends; next day accompanied in addition by chief trader Griffin, our agent upon the island, we took the opportunity in passing Cutler's hut or tent to call upon him. I remonstrated with him in regard to his offence, which he admitted, offering to pay the value of the animal killed, which was not accepted. No demand of one hundred dollars, or any sum of money was made upon him, nor did I threaten to apprehend him or take him to Victoria. On the contrary, I stated distinctly that I was a private individual and could not interfere with him. I have fortunately an unimpeachable witness to prove this. Cutler was perhaps alarmed at seeing four of us approach him on horseback, and conscious of being in the wrong, not unnaturally took it for granted we had come to seek reparation. After some further talk, in the course of which Cutler threatened to shoot any more of our animals that might interfere with him, we rode away, and the only other notice taken of the affair by me was in a conversation held with Governor Douglas, when I suggested to him to appeal to the authorities of Washington Territory, requesting them to restrain their citizens on San Juan Island from committing further trespasses. He declined to adopt my suggestion, and the matter dropped.

5. Cutler did not use any threat to me, and I gave him no cause to do so. What has been dignified by the name of his "farm" consisted of a very small patch of potatoes, partially fenced on three sides, and entirely open on the

fourth. The boar was shot in the adjoining forest. With a stock of five thousand sheep and a number of horses, cattle, pigs, &c., it will be apparent to you that it would have been impossible for us to restrain any of these animals from committing depredations on such "farms" as Cutler's. The loss and annoyance occasioned to us by squatters in the midst of our sheep runs must also be equally apparent. Under circumstances of great provocation the utmost forbearance has been invariably exercised by the Hudson's Bay Company towards American squatters and others.

6. The Hudson's Bay Company has never threatened to stir up the northern Indians against American citizens on San Juan Island or elsewhere. On the contrary, we have always cautioned them to treat American citizens as friends and brothers. The policy of the Hudson's Bay Company has been always a peaceful one.

7. I cannot, as you state, use a British ship of war without the authority of Governor Douglas or the British admiral, nor have I done so, or ever attempted anything of the kind. No British ship of war has, to my knowledge, taken the slightest supervision of the affairs of the Hudson's Bay Company.

8. In your letter of August 29, to the Adjutant General, you say, "a British man-of-war lands Mr. Dallas, the chief factor of the Hudson's Bay Company, who abuses one of our citizens in the harshest manner, and threatens to take him by force to Victoria for trial and imprisonment. Finding the citizen resolute in the defence of his rights, the Americans were informed the British Indians would be sent down upon them to drive them from the island. I shall substantiate these facts by the affidavits of American citizens of such position and character as cannot leave a doubt of their truth, and showing the attempted denial of Governor Douglas in his communication of the 13th instant is only a quibble." On reference to the affidavits of Paul K. Hubbs, jr., and Lyman A. Cutler, I find it certified that I landed from the Hudson's Bay Company's steamer Beaver. I also find in a memorial to yourself from the American citizens resident in San Juan, on the 10th July, the memorialists state that "but for the timely aid" of the Hudson's Bay Company "the United States inspector would have fallen a victim to the savage designs of the Indians." Such is the manner in which the accusations brought against me are substantiated.

9. I cannot conclude without taking notice of a letter from Paul K. Hubbs, of Port Townsend, under date September 2, addressed to the President of the United States, in which he states that Governor Douglas is the chief director of the Hudson's Bay Company. This is, as I have already stated, utterly untrue. Another portion of Mr. Hobbs's unintelligible letter, in so far as I can understand it, states that "the Hudson's Bay Company, with a half-dozen armed steamers, did land and go to the man that shot the boar, and that five of them (the steamers, I presume) could not take him, but threatened to send the 'Plumper,' a British frigate, for him." The Plumper is a small and well-known surveying barque, and the whole statement is too absurd to require refutation. It is only the fact of the letter of a private individual containing some statements as false as others are unintelligible, having been addressed to the President of the United States, and circulated by him, which induces me to notice it all. As the representative of a large public company, I feel compelled to come forward thus emphatically to contradict the misstatements which have been so repeatedly and extensively circulated regarding the company and myself. I have endeavored to do so as courteously as emphatic denial would admit, and with the view also of removing from your mind any misapprehension which might still exist under a complication of circumstances in regard to which you have evidently been misinformed.

I have, &c.,

A. J. DALLAS.

General HARNEY, &c., &c.,

No. 28.

*Mr. Cass to Lord Lyons.*DEPARTMENT OF STATE,  
*Washington, June 25, 1860.*

My LORD: I communicated to the President the conversation I had with your lordship a few days since concerning the existing differences between our respective governments arising out of the treaty of Washington, of the 15th June, 1846, and I have been instructed to assure your lordship that the President is equally solicitous with the government of Her Britannic Majesty for the amicable and satisfactory adjustment of the questions now at issue; and he concurs in the opinions entertained by your government, as stated in your note of May 25, 1860, that a partial settlement of this controversy would serve no good purpose, but that the whole subject in dispute under the treaty should be settled at the same time. And I have it further in charge to inform your lordship that this government is ready to receive and fairly to consider any proposition which the British government may be disposed to make for a mutually acceptable adjustment, with an earnest hope that a satisfactory arrangement will speedily put an end to all danger of the recurrence of those grave questions which have more than once threatened to interrupt that good understanding which both countries have so many powerful motives to maintain.

I have the honor to be, my lord, with consideration, your lordship's obedient servant,

LEW. CASS.

LORD LYONS, &amp;c.. &amp;c., &amp;c.

No. 29.

*Mr Irvine to Mr. Trescot.*BRITISH LEGATION,  
*Washington, August 17, 1860.*

SIR: Her Majesty's government are desirous to remove all uncertainty from the question of the temporary jurisdiction of the island of San Juan.

I am therefore instructed to propose to the government of the United States that the civil magistracy should be removed, on both sides, from the island, and that a military jurisdiction should be established on the basis of the arrangement effected by General Scott; or, that a separate jurisdiction should be established over different portions of the island in the hands of the British and American magistrates, if such an arrangement should be preferred by the government of the United States.

The former course appears to Her Majesty's government to be more advisable, and would be also, I have no doubt, acceptable to the United States government. I am likewise instructed to propose that, to prevent the risk of future misunderstandings, the matter should be definitely arranged by means of a convention, or by an exchange of notes between the State Department and her Majesty's Legation.

I have the honor to be, sir, with the highest consideration, your most obedient humble servant,

W. DOUGLAS IRVINE.

HON. WILLIAM HENRY TRESCOT,  
*Acting Secretary of State.*

No. 30.

*Mr. Trescot to Mr. Irvine.*

DEPARTMENT OF STATE,

*Washington, August 18, 1860.*

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant, in which you say that Her Britannic Majesty's government, desirous to remove all uncertainty from the question of the temporary jurisdiction of the island of San Juan, instructs you "to propose to the government of the United States that the civil magistracy should be removed on both sides from the island, and that a military jurisdiction should be established on the basis of the arrangement effected by General Scott, or that a separate jurisdiction should be established over different portions of the island, in the hands of British and American magistrates," and in which you further propose that "the matter should be definitely arranged by means of a convention, or by an exchange of notes between the State Department and Her Majesty's Legation."

In reply, I would say that the government of the United States share the anxiety of Her Britannic Majesty's government for the removal of all uncertainty from this question; but as far as this desirable end can be reached by "an exchange of notes between the State Department and Her Majesty's Legation," it has already been effected; and in this connection I would respectfully call your attention to the correspondence between Mr. Marcy and Mr. Crampton, under the respective dates of the 17th and 18th of July, 1855, and between General Cass and Lord Lyons, of the 6th and 8th of June last, and especially to the following extract from the letter of Lord Lyons, complaining to this government of General Harney's orders: "It would be superfluous to remark upon the inconsistency of the whole tenor and spirit of these orders with the satisfactory arrangement made by General Scott in November last;" and to another extract from the reply of General Cass: "I am now instructed to inform you that the arrangement entered into by General Scott, in the month of October, 1859, in order to prevent any collision upon the island of San Juan, between the American and British authorities, pending the negotiations between the two governments, was strictly in pursuance of a previous arrangement which was made with Mr. Crampton by the Secretary of State of the United States, in July, 1855, and met the full approval of this government;" and it may, perhaps, not be improper to recall the fact that it appears from the reported proceedings of Parliament, that Lord John Russell has declared this reply perfectly satisfactory.

This Department is, therefore, of opinion that it has already, by the exchange of notes with Her Majesty's Legation, anticipated the first of the alternative propositions which you have submitted; and it deems this an opportune occasion to invite the serious attention of Her Britannic Majesty's government to the great inconvenience of the existing condition of things on the island of San Juan, and to express the hope that Her Britannic Majesty's government will, before long, remove the necessity of any temporary arrangement, by the final and permanent settlement of this question.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

WILLIAM HENRY TRESCOT,

*Acting Secretary.*

W. DOUGLAS IRVINE, &amp;c., &amp;c., &amp;c.

No. 31.

*Lord Lyons to Mr. Cass.*WASHINGTON, *December* 10, 1860.

SIR: In the note which you did me the honor to address to me on the 25th June last you informed me that the President was equally solicitous with the government of Her Majesty for the amicable and satisfactory adjustment of the questions at issue between the two countries, respecting the execution of the treaty signed at Washington on the 15th of June, 1846. You added that the government of the United States would be ready to receive and fairly to consider any proposition which Her Majesty's government might be disposed to make for a mutually acceptable adjustment, with an earnest hope that a satisfactory arrangement would speedily put an end to all danger of the recurrence of those grave questions which have more than once threatened to interrupt that good understanding which both countries have so many powerful motives to maintain.

The absence from England of Her Majesty's Secretary of State for the Colonies prevented Her Majesty's government from enabling me to make an earlier reply to this communication. But Her Majesty's government have not relaxed in their desire to close the controversy with regard to the complete execution of the treaty; and, in the confident hope of settling the whole matter in a manner satisfactory and honorable to both parties, they have directed me to lay before you the proposals which I shall proceed to state in this note.

The two points which have been in discussion are, first, the fulfilment of the obligations undertaken by the United States in respect to the Hudson's Bay and Puget Sound Companies; and secondly, the determination of the line of water boundary intended by the first article of the treaty. With regard to the first point, the President said to me, in the course of a conversation which I had the honor of holding with him on the 11th July last, that the best and most expeditious mode of settling the question would be for the companies to state at once the lowest sum for which they would sell their rights to the United States. Upon receiving from me a report of this conversation, Lord John Russell, Her Majesty's Principal Secretary of State for Foreign Affairs, sent for the governor of the Hudson's Bay Company and explained to him what the President had said to me on the subject of the company's claims.

The governor informed Lord John Russell, in reply, that if the company were called upon to fix the amount which they should ask for the extinction of their claims, they should name a sum of six hundred and fifty thousand dollars. He observed that they had been assessed at seven hundred thousand dollars, and that in the United States, as in England, the assessment is always below the real value. The governor added that this sum of six hundred and fifty thousand dollars would be an assessment on land and buildings alone, and would not include any compensation for privileges.

Considering all the circumstances, Lord John Russell recommended the company to reduce their claim to five hundred thousand dollars; and this sum the company have stated their readiness to accept.

I am, accordingly, instructed to state to you, sir, that, if the United States government will agree to pay to the Hudson's Bay and Puget Sound Companies a sum of five hundred thousand dollars in extinction of all their claims against the United States under the treaty of June 15, 1846, Her Majesty's government will be prepared to accept that amount on behalf of the two companies, and to release the United States government from all further liability, so far as regards their engagements to Great Britain under the third and fourth articles of that treaty in behalf of the Hudson's Bay and Puget Sound Companies in



Oregon, whether on account of lands and buildings or on account of privileges mentioned in the aforesaid articles.

In reference to the line of the water boundary intended by the treaty, with respect to which, also, Her Majesty's government have been invited by the United States government to make a proposition for its adjustment, I am instructed to inform you that Her Majesty's government are glad to reciprocate the friendly sentiments expressed in your note of the 25th of June, and will not hesitate to respond to the invitation which has been made to them.

It appears to Her Majesty's government that, the argument on both sides being nearly exhausted, and neither party having succeeded in producing conviction on the other, the question can only be settled by arbitration.

Three questions would arise thereupon—

1. What is to be the subject-matter of arbitration?
2. Who is to be the arbiter?
3. What is to be the result of the decision of the arbiter?

With regard to the first point, Her Majesty's government are of opinion that the question or questions to be referred should be, What is the meaning of the words relating to the water boundary contained in article 1 of the treaty of June 15, 1846; or, if the precise line intended cannot be ascertained, is there any line which will furnish an equitable solution of the difficulty, and is the nearest approximation that can be made to an accurate construction of the words of the treaty?

In considering these questions the arbiter might fairly consult all the correspondence on the subject and weigh the testimony of the British and American negotiators of the treaty as to their intentions in framing the article; but he should not depart from the true meaning of the article as it stands, if he can deduce it from the words agreed to by both parties, and consigned in a treaty ratified by both governments.

Secondly, Her Majesty's government are of opinion that a reigning prince or sovereign state should be the arbiter; Her Majesty's government propose, with this view, that the King of the Netherlands, or King of Sweden and Norway, or the President of the Federal Council of Switzerland, should be invited to be the arbiter.

With regard to the third point, Her Majesty's government are desirous that this long controversy should not be again thrown loose for dispute; they therefore propose that both governments shall bind themselves to accept the decision of the arbiter, whether he shall give a positive decision or whether he shall declare that he cannot fix the precise meaning of the article in question, but that he has laid down on the chart a line which will furnish an equitable solution of the difficulty, and is the nearest approximation he can make to an accurate construction of the words of the treaty.

Should these proposals be accepted, Her Majesty's government flatter themselves that an equitable decision may be arrived at and a long and dangerous controversy terminated in a manner consistent with the honor and the interests of both governments.

I have the honor to be, sir, with the highest consideration, your most obedient, humble servant,

LYONS.

Hon. General LEWIS CASS,  
*Secretary of State.*



No. 32.

[Extract.]

*Deputy Marshal Brown to Mr. Seward.*

UNITED STATES MARSHAL'S OFFICE,  
*Port Townsend, W. T., September 20, 1866.*

DEAR SIR: Allow me to call your attention to the fact that difficulties are on the point of occurring between the military authorities of the United States on San Juan Island, and the civil authorities of Washington Territory.

Captain Gray, of the United States forces, having exercised arbitrary power over the citizens, process was issued out of the United States district court of the third judicial district of Washington Territory for his arrest; he refused to be arrested, and the sheriff returned the process to that effect. When the judge ordered him to summon a posse and bring him, he was met by force, and he returned the process unserved, and the court has now adjourned; but the judge ordered a *capias* to issue to the sheriffs of the different counties of the third judicial district, and to enforce the orders and process of the court. Therefore there is a probability of being trouble, unless the Department of State settle the question as to the authority of either the military or civil power over the island. The citizens claim the protection of the court, and Judge Darwin means to enforce civil law upon the island if it requires all the force of the Territory. Therefore, something should be done immediately by the Department of State, or serious difficulties must arise.

\* \* \* \* \*

JARED C. BROWN,  
*Deputy United States Marshal.*

Hon. WILLIAM H. SEWARD.

No. 33.

*Mr. Seward to Mr. Stanton.*

DEPARTMENT OF STATE,  
*Washington, November 19, 1866.*

SIR: I have the honor to transmit herewith a copy of a letter of the 20th of September last, from the deputy United States marshal at Port Townsend, Washington Territory, relative to a disturbance which seems likely to take place between the United States military authorities on San Juan Island, and the civil authorities of the aforementioned Territory, growing out of the alleged exercise of arbitrary power over the citizens by Captain Gray, in command of the troops stationed on San Juan Island.

I will thank you to cause inquiry to be made regarding the proceedings of the military officers, and also to suggest the importance of harmony pending the settlement of the controversy between the two governments about the said islands.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. EDWIN M. STANTON,  
*Secretary of War.*

No. 34.

*Mr. Stanton to Mr. Seward.*

WAR DEPARTMENT,  
*Washington City, November 20, 1866.*

SIR : I have the honor to acknowledge the receipt to-day of your communication of the 19th instant, enclosing a copy of a letter from the deputy United States marshal at Port Townsend, Washington Territory, and referring to a conflict which is alleged to be imminent between the United States military authorities in San Juan Island, and the civil authorities of the above-named Territory.

The matter has been referred to General Grant, with instructions to cause an investigation and report the facts.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

Hon. WILLIAM H. SEWARD, *Secretary of State.*

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No. 35.

*Mr. Stanton to Mr. Seward.*

WAR DEPARTMENT,  
*Washington City, December 22, 1866.*

SIR : Referring to your communication of the 19th ultimo, respecting a conflict alleged to be imminent between the United States military authorities on San Juan Island and the civil authorities of Washington Territory, and to my reply thereto, dated the 20th ultimo, I have now the honor to transmit a copy of a report from General Grant, submitting one from Brevet Brigadier General Babcock, one of his aides-de-camp, who, while at Fort Vancouver, received a statement of the facts from Major General Steele, commanding the Department of the Columbia.

It appears that the cause of the trouble in question was an attempt of a citizen to obstruct the road between the military post and landing. But General Babcock reports that the Department Commander did not apprehend a collision between the civil and military authorities.

I have the honor to be, sir, your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

Hon. WILLIAM H. SEWARD, *Secretary of State.*

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*General Babcock to General Rawlins.*

HEADQUARTERS ARMIES OF THE UNITED STATES,  
*Washington, D. C., December 6, 1866.*

GENERAL : In compliance with the request of the General-in-chief I have the honor to submit the following information concerning the difficulty existing between the civil authorities of Washington Territory and the commanding officer, Captain Gray, second United States artillery, of the military post on San Juan Island, Puget Sound.

I first heard of the trouble at General Steele's headquarters, Fort Vancouver Washington Territory, and, as I remember, it was in substance as follows: A citizen living on the island, owning land lying between the landing and the military post, becoming displeased with the military authority, built a fence across the road leading from the post to the landing. He was notified to remove it, but would not, and continued the trouble until Captain Gray ejected him from the island. General Steele did not expect any collision between the civil and military authorities. I may be mistaken in the facts of the case, but I give them as I remember General Steele's statement.

Our title to the island is disputed by the English government, and, according to the agreement for joint occupancy, until the question of title is settled, each government is to keep one company of troops on the island, with no artillery. Now if the military is withdrawn our title to the island is given up. It, therefore, seems to me that the military is the superior authority on the island, and should be thus recognized.

I am, General, very truly, your obedient servant,

O. E. BABCOCK,

*Brevet Brigadier General and Aide-de-camp.*

Major General RAWLINS,

*Chief of Staff.*

HEADQUARTERS ARMIES OF THE UNITED STATES,

*December 10, 1866.*

Respectfully returned to the Secretary of War, and attention invited to the letter of Brevet Brigadier General O. E. Babcock, aide-de-camp, enclosed herewith.

U. S. GRANT, *General.*

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No. 36.

*Mr. Stanton to Mr. Seward.*

WAR DEPARTMENT,

*Washington City, January 16, 1868.*

SIR: In reply to your communication of the 10th instant, asking for information concerning the joint occupancy of San Juan Island, I have the honor to send herewith copies of papers\* which it is believed contain the information you desire, and all that is in this department, on the subject.

Very respectfully, your obedient servant,

EDWIN M. STANTON,

*Secretary of War.*

The Honorable the SECRETARY OF STATE.

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\* These papers were published in H. Ex. Doc. No. 98, 33th Cong. 1st sess., and will be found on pp. 208-217 of this document.

No. 37.

*Mr. Stanton to Mr. Seward.*

WAR DEPARTMENT,  
*Washington City, January 24, 1868.*

SIR: I have the honor to send herewith, for the information of the Department of State, a copy of a report dated the 18th November, 1867, made to this Department by Major General Halleck, commanding the military division of the Pacific.

\* \* \* \* \*

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

The Honorable SECRETARY OF STATE.

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*General Halleck to the Adjutant General.*

[Extract.]

HEADQUARTERS MILITARY DIVISION OF THE PACIFIC,  
*San Francisco. Cal., November 18, 1867.*

GENERAL: I beg leave to call the special attention of the War Department, and through it the Department of State, to the present condition of affairs on San Juan Island, and the other islands which form the De Haro Archipelago, between the Straits of De Haro and Rosario.

It is hardly necessary to recapitulate the circumstances which led to the conflicting claims of Great Britain and the United States to this archipelago; and the resulting difficulties between the authorities of Washington Territory and British Columbia, in which the military on both sides became involved.

These difficulties were temporarily arranged, or supposed to be arranged, by an agreement between General Scott and Admiral Baynes, in 1859, for a joint *military* occupation of the disputed territory, thus excluding the civil jurisdiction of both parties. This anomalous arrangement was easily carried into execution on the part of the British government, as the civil and military affairs in the colony are under the same head and directed by the same person. But not so with us. General Scott's agreement, although approved by the Executive, had not the sanction of law, and was repudiated by the civil authorities of Washington Territory as of no binding force. They, therefore, continued to claim the right to collect taxes, execute judicial process, &c., in the disputed territory. Moreover, the United States officers of customs claimed the right to enforce our revenue laws on the same islands. Both of these claims may have been lawful, but they were entirely incompatible with the Scott-Baynes arrangement for exclusive *military* occupation; and to permit them to be carried out would be a virtual abrogation of that agreement, and a renewal of the very conflict of jurisdiction which it was intended to avoid. Hence our military officers, under instructions sanctioned by the War Department forcibly resisted every attempt of our customs and territorial officers to exercise civil authority on these islands. By this course they have avoided all difficulties between the two nations in regard to claims of ownership of the disputed territory; but it has involved them in serious personal difficulties. Brevet Major Graves, lieutenant second regiment of artillery, has been arrested and put under heavy bonds for resisting the civil jurisdiction of Washington Territory, on San Juan

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Our title to the island is disputed by the English government, and, according to the agreement for joint occupancy, until the question of title is settled, each government is to keep one company of troops on the island, with no artillery. Now if the military is withdrawn our title to the island is given up. It, therefore, seems to me that the military is the superior authority on the island, and should be thus recognized.

I am, General, very truly, your obedient servant,

O. E. BABCOCK,

*Brevet Brigadier General and Aide-de-camp.*

Major General RAWLINS,

*Chief of Staff.*

HEADQUARTERS ARMIES OF THE UNITED STATES,

*December 10, 1866.*

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U. S. GRANT, *General.*

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*Washington City, January 16, 1868.*

SIR: In reply to your communication of the 10th instant, asking for information concerning the joint occupancy of San Juan Island, I have the honor to send herewith copies of papers\* which it is believed contain the information you desire, and all that is in this department, on the subject.

Very respectfully, your obedient servant,

EDWIN M. STANTON,

*Secretary of War.*

The Honorable the SECRETARY OF STATE.

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*Washington City, January 24, 1868.*

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\* \* \* \* \*

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

The Honorable SECRETARY OF STATE.

---

*General Halleck to the Adjutant General.*

[Extract.]

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These difficulties were temporarily arranged, or supposed to be arranged, by an agreement between General Scott and Admiral Baynes, in 1859, for a joint *military* occupation of the disputed territory, thus excluding the civil jurisdiction of both parties. This anomalous arrangement was easily carried into execution on the part of the British government, as the civil and military affairs in the colony are under the same head and directed by the same person. But not so with us. General Scott's agreement, although approved by the Executive, had not the sanction of law, and was repudiated by the civil authorities of Washington Territory as of no binding force. They, therefore, continued to claim the right to collect taxes, execute judicial process, &c., in the disputed territory. Moreover, the United States officers of customs claimed the right to enforce our revenue laws on the same islands. Both of these claims may have been lawful, but they were entirely incompatible with the Scott-Baynes arrangement for exclusive *military* occupation; and to permit them to be carried out would be a virtual abrogation of that agreement, and a renewal of the very conflict of jurisdiction which it was intended to avoid. Hence our military officers, under instructions sanctioned by the War Department forcibly resisted every attempt of our customs and territorial officers to exercise civil authority on these islands. By this course they have avoided all difficulties between the two nations in regard to claims of ownership of the disputed territory; but it has involved them in serious personal difficulties. Brevet Major Graves, lieutenant second regiment of artillery, has been arrested and put under heavy bonds for resisting the civil jurisdiction of Washington Territory, on San Juan



Island, and Captain Gray has been fined five thousand dollars (\$5,000) for the same alleged offence. Undoubtedly other officers of the command on that island will receive similar treatment as soon as they can be arrested by the civil officers of Washington Territory.

In other words, we have this anomalous condition of affairs on that frontier: The military officers of the United States are required to prevent the exercise of civil jurisdiction on the disputed islands, while the civil officers of the same government insist upon its execution, and proceed to punish the former for the very acts which are required of them by the War Department.

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Very respectfully, your obedient servant,

H. W. HALLECK,  
*Major General*

ADJUTANT GENERAL OF THE ARMY,  
*Washington, D. C.*

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MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING,



*In compliance with a resolution of the Senate of the 4th instant, information in relation to instructions issued to General Pope and General Meade, on their being assigned to the command of the third military district.*

FEBRUARY 26, 1868.—Read, referred to the Committee on the Judiciary, and ordered to be printed.

*To the Senate of the United States:*

I transmit herewith a report from the General commanding the army of the United States, prepared in compliance with the resolution of the Senate of the 4th instant, requesting copies of all instructions relating to the third military district, issued to General Pope and General Meade.

ANDREW JOHNSON.

WASHINGTON, D. C., *February 26, 1868.*

HEADQUARTERS ARMY OF THE UNITED STATES,  
*Washington, February 12, 1868.*

SIR: I have the honor to return herewith resolution of the Senate of the United States of February 4, with copies of the papers in my custody bearing upon the subjects referred to.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

His Excellency A. JOHNSON,  
*President of the United States.*

HEADQUARTERS ARMY OF THE UNITED STATES,  
*Washington, D. C., March 16, 1867.*

GENERAL: In executing the requirements of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," you will forward to these headquarters, as soon as issued, copies of all your orders or instructions relating to said act, sending them usually by mail, but in cases of emergency or great importance by telegraph. When the telegraph is used, a copy should also be sent by mail.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Brevet Major General JOHN POPE,  
*Commanding 3d Military District, Montgomery, Alabama.*

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*



## GENERAL POPE AND GENERAL MEADE.

HEADQUARTERS ARMY OF THE UNITED STATES,  
*Washington, D. C., April 13, 1867*

GENERAL: In reply to your communication of April 7, the General-in-Chief directs me to say that your views upon the obligation of a parole are in accordance with his own.

Application will be made to the Secretary of the Interior for the information you desire from the Census Bureau.

Staff officers have been ordered to report to you.

I am, general, your obedient servant,

O. E. BABCOCK,  
*Brevet Brigadier General and Aide-de-Camp*

Brevet Major General POPE, U. S. A.,  
*Commanding 3d Military District, Atlanta, Georgia.*

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General*

---

[Telegram.]

WASHINGTON, *April 16, 1867*

Major General POPE, *Atlanta, Georgia:*

Instruct General Swayne, commanding sub-district of Alabama, to comply implicitly with telegraphic instructions this day sent to him by the Secretary of the Treasury, with regard to First National Bank of Selma, and the cases of said bank.

U. S. GRANT, *General*

HEADQUARTERS ARMY UNITED STATES

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General*

---

WASHINGTON, D. C., *April 21, 1867*

MY DEAR GENERAL: Having read Governor Jenkins's address to the citizens of Georgia, I was on the eve of writing you a letter advising his suspension from office before a military commission, when your despatch announcing the governor had given such assurances as to render your order, in his case, unnecessary, was received. I am now in receipt of the order itself, and your accompanying letter, and have just prepared the enclosed indorsement to go with it.

My views are that district commanders are responsible for the faithful execution of the reconstruction act of Congress, and that in civil matters I cannot give them an order. I can give them my views, however, for what they are.

\* \* \* \* \*

I presume the Attorney General will give a written opinion on the subject of the power of district commanders to remove civil officers and appoint successors. When he does I will forward it to all the district commanders.

It is very plain that the power of district commanders to try offenders by military commissions exists. I would advise that commissions be resorted to only in cases of grave offenses.

rather than arbitrary removals, until an opinion is had from the Attorney General, or it is found that he does not intend to give one.

\* \* \* \* \*

Yours truly,

U. S. GRANT, *General.*

Major General J. POPE,  
*Commanding Third District.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

ATLANTA, GA., *April —, 1867.*

General John Pope, commanding third military district, submits copy of special order which he intends issuing so soon as he ascertains whether Governor Charles J. Jenkins, at the time he issued his address, was aware of his (General P.'s) Order No. 1.

[Indorsement.]

HEADQUARTERS ARMIES OF THE UNITED STATES,

*April —, 1867.*

Respectfully forwarded to the Secretary of War for his information. The telegraphic despatch herein enclosed shows that Governor Jenkins, of Georgia, has given such pledges to the commander of the third district as to induce him to withhold for the present his order suspending the governor. The conduct of the governor (Jenkins) demonstrates, however, how possible it is for a discontented civil officer of the unreconstructed States to defeat the laws of Congress if the power does not exist with district commanders to suspend their function for cause in some way. It seems clear to me that the power is given, in the bill "for the more efficient government of the rebel States," to use or not, at the pleasure of district commanders, the provisional machinery set up without the authority of Congress in the States to which the reconstruction act applies. There being doubt, however, on this point, I would respectfully ask an early opinion on the subject.

If the power of removal does not exist with district commanders, then it will become necessary for them to take refuge under that section of the bill which authorizes military commissions.

U. S. GRANT, *General.*

HEADQUARTERS ARMY OF THE UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

HEADQUARTERS ARMY OF THE UNITED STATES,

*Washington, D. C., May 11, 1867.*

GENERAL : The estimates for funds to carry out the act of Congress "for the more efficient government of the rebel States," being in excess of the amount appropriated by Congress, district commanders are informed that the Paymaster General will inform them of the amount each can receive from the present appropriation.



MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING,



*compliance with a resolution of the Senate of the 4th instant, information in relation to instructions issued to General Pope and General Meade, on their being assigned to the command of the third military district.*

FEBRUARY 26, 1868 — Read, referred to the Committee on the Judiciary, and ordered to be printed.

*to the Senate of the United States:*

I transmit herewith a report from the General commanding the army of the United States, prepared in compliance with the resolution of the Senate of the 4th instant, requesting copies of all instructions relating to the third military district, issued to General Pope and General Meade.

ANDREW JOHNSON.

WASHINGTON, D. C., February 26, 1868.

HEADQUARTERS ARMY OF THE UNITED STATES,  
Washington, February 12, 1868.

SIR: I have the honor to return herewith resolution of the Senate of the United States of February 4, with copies of the papers in my custody bearing on the subjects referred to.

Very respectfully, your obedient servant,

U. S. GRANT, General.

His Excellency A. JOHNSON,  
President of the United States.

HEADQUARTERS ARMY OF THE UNITED STATES,  
Washington, D. C., March 16, 1867.

GENERAL: In executing the requirements of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," you are to forward to these headquarters, as soon as issued, copies of all your orders and instructions relating to said act, sending them usually by mail, but in cases of emergency or great importance by telegraph. When the telegraph is used, a copy should also be sent by mail.

Very respectfully, your obedient servant,

U. S. GRANT, General.

Brevet Major General JOHN POPE,  
Commanding 3d Military District, Montgomery, Alabama.

Official copy:

GEO. K. LEET,  
Assistant Adjutant General.

Island, and Captain Gray has been fined five thousand dollars (\$5,000) for the same alleged offence. Undoubtedly other officers of the command on that island will receive similar treatment as soon as they can be arrested by the civil officers of Washington Territory.

In other words, we have this anomalous condition of affairs on that frontier: The military officers of the United States are required to prevent the exercise of civil jurisdiction on the disputed islands, while the civil officers of the same government insist upon its execution, and proceed to punish the former for the very acts which are required of them by the War Department.

\* \* \* \* \*

Very respectfully, your obedient servant,

H. W. HALLECK,  
*Major General*

ADJUTANT GENERAL OF THE ARMY,  
*Washington, D. C.*

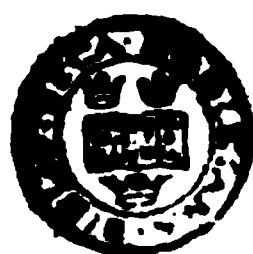
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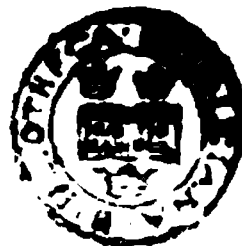


MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,



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GENERAL: In executing the requirements of the act of Congress entitled "An act to provide for the more efficient government of the rebel States," you will forward to these headquarters, as soon as issued, copies of all your orders and instructions relating to said act, sending them usually by mail, but in cases of emergency or great importance by telegraph. When the telegraph is used, a copy should also be sent by mail.

Very respectfully, your obedient servant,

U. S. GRANT, *General.*

Brevet Major General JOHN POPE,  
*Commanding 3d Military District, Montgomery, Alabama.*

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

WASHINGTON, *December 23, 1867.*Brevet Major General JOHN POPE, *Atlanta, Ga.:*

If you can possibly spare them, send four companies of troops from your command to New Orleans to report to General Hancock. If they cannot be spared otherwise, you might diminish the garrisons in forts.

U. S. GRANT, *General*

HEADQUARTERS ARMY OF THE UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

WASHINGTON, *December 26, 1867.*Brevet Major General JOHN POPE, *Atlanta, Ga.:*

The return of troops can't be promised. You can, however, send any artillery companies that you think can be spared from present duties. Answer.

U. S. GRANT, *General.*

HEADQUARTERS ARMY OF THE UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received at War Department December 26, 1867, from Atlanta, Georgia, December 27, 1867.]

General U. S. GRANT :

Have ordered by telegraph two (2) companies of artillery from Fort Jefferson. Will reach New Orleans about fifteenth (15) January. One company of infantry from Georgia proceed immediately.

JOHN POPE,  
*Brevet Major General.*

HEADQUARTERS ARMY OF THE UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

ATLANTA, GEORGIA, *December 27, 1867.*

General John Pope, commanding third district, relative to refusal of State treasurer, John Jones, of Georgia, to pay the members of convention in Georgia.

[Indorsement.]

HEADQUARTERS OF THE ARMY UNITED STATES,  
*January 6, 1868.*

Respectfully returned. The convention is authorized by act of Congress passed March 23, 1867, supplementary to an act entitled "An act to provide

the more efficient government of the rebel States," of March 2, 1867, to levy on and collect a sufficient amount of taxes on the property of the State as is necessary to pay the expenses of the same. The ordinance passed by the convention for the purpose and the order of the military commander to the State treasurer indorsed thereon, is in conformity to the letter and spirit of said acts and the acts supplementary thereto, of July 19, 1867. The government under the constitution of the State of Georgia adopted in 1865, which said treasurer sets up as a bar to his compliance with said ordinance, is by the said acts of Congress specifically declared, with the governments of other States lately in rebellion, therein named, to be "not legal State governments; and that thereafter, said governments, if continued, were to be continued, subject in all respects to the military commanders of the respective districts and the paramount authority of Congress."

Section 11 of said supplementary act of July 19 provides: "That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the interests thereof may be fully and perfectly carried out."

It is clear, from the correspondence between General Pope and the treasurer, that the proper administration of the military reconstruction acts requires the removal of said treasurer, and the appointment of some person in his stead, under section 2 of said supplementary act of July 19, who will respect the authority of Congress, the orders of military commanders, and the ordinance of the convention under the same.

Should the comptroller general of the State, as General Pope seems to fear he may, decline to execute the ordinance of the convention, then he, too, should be removed.

U. S. GRANT, *General.*

HEADQUARTERS UNITED STATES ARMY,  
*February 12, 1868.*

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

WASHINGTON, *January 8, 1868.*

Major General G. G. MEADE, *Atlanta, Georgia:*

Please take no action on the removal of mayor and council of Augusta until charges are fully investigated.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

[Received 4.30 p. m., in cipher, from Atlanta, Georgia, January 9, 1868.]

General U. S. GRANT:

The passage of ordinances by the convention of Alabama and Georgia enacting stay laws are producing great suffering in these States, by causing expedition



to be made in making levies, in anticipation of these ordinances having the force of law.

Advantage is being taken of the interval of time before these ordinances are laws to hurry levies and executions, thus causing these ordinances, intended as measures of relief, to become in reality the means of increasing and greatly aggravating the burden of the people. I am therefore inclined to adopt these ordinances as the act of the military authority, and declare them to have force until the question is settled as to the adoption or rejection of the constitution enacting them. I refer to you because your telegram of December 23 is adverse to enforcing any of the ordinances of the convention prior to the adoption of the constitution, and to obtain your approval of my proposed action.

Please answer immediately.

G. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

WASHINGTON, *January 10, 1868.*

Major General G. G. MEADE, *Atlanta, Georgia :*

As district commander I think you will be perfectly justifiable in adopting as your own order the stay laws proposed in the constitutions to be submitted to the people of Alabama and Georgia. This course is different from adopting as law the provisions of the constitutions in advance of their ratification.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received War Department 7 a. m. January 10, 1868, from Atlanta, Ga., January 9, 1868.]

General U. S. GRANT :

I have had a conference with Governor Jenkins, and exerted all my influence to induce him to consider the appropriation by the convention as an appropriation made by law and not inconsistent with the provisions of the Georgia constitution, and urged him to sign the warrant required by the treasury. The governor declined, and there is no other alternative but the exercise of my power to obtain control of the State treasury. To avoid making any more changes than are required to effect the object, and also the difficulty of finding a suitable person, and the question of bonds, I propose to remove only the treasurer, and to assign to the duty Brevet Brigadier General Ruger, with instructions to continue payments as heretofore, in accordance with the existing laws of the State, and to make such payments to the convention as I shall authorize, checking thus unnecessary expenditures. I see no other mode of supplying the wants of the convention, and the continuance in session is dependent upon its wants

being immediately supplied. It is probable other steps may have to be taken before the money can be secured, as it is intimated that an issue will be made with the view of testing the invalidity of my power.

Your approval or disapproval is asked at once.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

WASHINGTON, *January* 10, 1868.

Major General G. G. MEADE, *Atlanta, Georgia :*

Plan proposed in your despatch of last evening to remove State treasurer of Georgia is approved.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

[Received, in cipher, 9 p. m., from Atlanta, Georgia, January 11, 1868.]

General U. S. GRANT :

The convention of Alabama ordained that when the election for the ratification of the constitution should be held, the people should vote to fill all the offices created by the constitution and for members of Congress.

General Pope, in his order, authorizes the officers of the election to receive the votes cast in conformity with this ordinance. Governor Patton and many influential citizens advocate strongly the withdrawal of this authority, alleging it will effect injuriously the question of ratification, and that the nominees, mostly members of the convention, are not such as the people would put in nomination if they had a fair chance. General Swayne admits some of the objections, but strongly reports against the revocation, on the grounds that it would be disastrous to reconstruction ; that it would require additional elections, greatly to be deprecated, and that they are not required explicitly by the reconstruction act. The power exercised by the convention is implied in these acts.

My own judgment would be against authorizing the election, were the question submitted *ab initio*. As the order has been issued, there are reasons against any change, provided the whole of the State machinery were going into effect so soon as the constitution is ratified. But I do not think the officers elected can take office, without my authority, until the constitution under which they are elected receives the approval of Congress. But there will, doubtless, be great pressure brought to bear to obtain my authority ; and recent action in Congress would seem to indicate a desire to place the State governments in the hands of the conventions.

I shall be glad to have your views, and, as the urgency is immediate, I ask for them by telegraph.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

[Received, in cipher, 10 p. m., from Atlanta, Georgia, January 12, 1868.]

General U. S. GRANT :

General Swayne, upon further reflection and fuller information as to the character of the nominees, withdraws the objections reported in my despatch of yesterday to the postponement of the election of State officers in Alabama on the 4th of February proximo.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS UNITED STATES ARMY.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

WASHINGTON, *January 13, 1868.*

Major General G. G. MEADE, *Atlanta, Georgia :*

I would not advise interference with elections ordered by the Alabama convention, unless very satisfactory reasons exist for doing so.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

WASHINGTON, *January 13, 1868.*

Major General G. G. MEADE, *Atlanta, Georgia :*

You will perceive by the reconstruction acts that "conventions are to frame constitutions and civil governments for their respective States," which clearly implies authority to order the election of officers thereunder, and in fixing the day of election Alabama has only followed a well-established precedent. The governments elected cannot assume authority, except under orders from the district commander or after action of Congress upon their constitution.

U. S. GRANT, *General*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received 7.30 p. m., from Atlanta, Georgia, January 15, 1868.]

General U. S. GRANT:

The governor of Florida has laid before me, and indorsed the same, a petition, numerously signed, asking that the order of General Pope calling together the constitutional convention on the 20th instant be suspended for a period sufficiently long to enable me to decide on the question raised by them invalidating the election of the members. The points raised are, the violation of the reconstruction laws by General Pope:

1st. In the manner of districting the State.

2d. In the registration thereof.

3d. In the conduct of the election.

There is no time for me to deliberately examine these points, but there is *prima facie* evidence justifying me in the belief that, perhaps, according to my judgment, the reconstruction laws have not been strictly adhered to; at least, there are grave questions raised. Under this view, I am disposed to postpone the meeting of the convention for thirty (30) days; but in this, as in all cases, refrain from acting until advised that you do not disapprove my proposed action.

Please reply immediately.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

WASHINGTON, *January 15, 1868.*

Major General GEORGE G. MEADE, *Atlanta, Georgia:*

Telegram to General Grant received. He replies: Act according to your own judgment about postponing convention.

A. BADEAU,  
*Brevet Brigadier General and Aide-de-Camp.*

HEADQUARTERS ARMY UNITED STATES.

Official copy:

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received War Department January 16, 1868, from Atlanta, Georgia, January 16, 1868.]

General U. S. GRANT:

Has a district commander any authority under the law to correct infractions of the law? Has he any power, supposing he is satisfied that an election had not been properly conducted or that great frauds existed, to set the elections aside and order another? My own opinion is that he has not, and that the only

appeal in cases of improper districting or fraudulent elections is to be found in Congress, when the constitutions are acted on. Answers to these questions are important, because if I cannot correct the evils charged in the case of Florida there is no occasion to postpone the meeting of the convention.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

WASHINGTON, *January 17, 1868.*

Major General G. G. MEADE, *Atlanta, Georgia :*

Congress unquestionably can determine upon the questions presented by the governor of Florida, whatever may be the authority of district commanders over such cases. General Pope having practically settled the matter complained of by his action before you assumed command of the third district, it is deemed judicious not to interfere with the meeting of the convention at the time ordered by him, but leave the whole matter to Congress in its final action.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

---

[Telegram.]

[Received 5 p. m., in cipher, from Atlanta, Georgia, January 18, 1868.]

General U. S. GRANT :

The State treasurer and comptroller general of this State have not only removed beyond my jurisdiction all the funds in their charge, but all the books and records of their offices, hoping by these means to force a resort to civil process. As these acts are not only in violation of the statutes of Georgia, but clear cases of the power and authority of the United States, I have ordered the arrest, and, if necessary, confinement of these derelict officers, and their trial by military commission for malfeasance in office and contempt of my authority.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received 9.30 a. m., January 22, from Atlanta, Georgia, January 21, 1868.]

General U. S. GRANT :

I have received through the President a communication from the governor of Florida relating to the meeting of the convention.

May I ask you to show to the President my telegrams on the subject, with your replies.

I am advised to-day by telegraph that the convention met yesterday and organized.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

WASHINGTON, *January 25, 1868.*Major General G. G. MEADE, *Atlanta, Georgia :*

Will it not be well to extend the number of days the polls are to be kept open at the Alabama election in order to give full opportunity to all who register to vote? Two days will hardly give sufficient time. It would be better to amend General Pope's order now than after the election had commenced.

U. S. GRANT, *General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*

[Telegram.]

[Received War Department 10.20 a. m., January 27, 1868. Cipher.]

ATLANTA, GA., *January 26, 1868.*

General U. S. GRANT :

After reference to commanding officer in Alabama, I have modified General Order No. one hundred and one (101) so as to allow four (4) days for voting, and confined the number of precincts to not more than three in any one county.

GEO. G. MEADE,  
*Major General.*

HEADQUARTERS ARMY UNITED STATES.

Official copy :

GEO. K. LEET,  
*Assistant Adjutant General.*





LETTER  
OF  
THE SECRETARY OF WAR,  
COMMUNICATING,

*In compliance with a resolution of the Senate of March 11, 1867, information in relation to the cost of opening, for first-class steamboat navigation, Bayou Manchac, Amite river, Lakes Maurepas and Pontchartrain.*

JANUARY 27, 1868.—Read, referred to the Committee on Commerce and ordered to be printed.

FEBRUARY 27, 1868.—3,000 additional copies ordered to be printed for the use of the Senate.

WAR DEPARTMENT,  
*Washington City, January 25, 1868.*

SIR: In compliance with a resolution of the Senate of March 11, 1867, asking for the cost of opening, for first-class steamboat navigation, Bayou Manchac, the Amite river, Lakes Maurepas and Pontchartrain, I have the honor to send, herewith, a report from the Chief of Engineers of January 25, enclosing one from the engineer officer who was detailed to make the survey, &c., which contains the information called for.

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

HON. B. F. WADE,  
*President of the Senate.*

HEADQUARTERS CORPS OF ENGINEERS,  
*Washington, D. C., January 25, 1868.*

SIR: In compliance with the following resolution of the Senate of the United States of March 11, 1867, viz: "*Resolved, That the Secretary of War be, and he is hereby, directed to detail an officer of the engineer corps of the army for the purpose of surveying Bayou Manchac, connecting with the Amite river, and leading into Lake Maurepas and Lake Pontchartrain, and report the cost of opening said streams with bayous to first-class steamboat navigation,*" referred to these headquarters "*to detail an officer and for report,*" I beg leave to transmit herewith a copy of the report of Brevet Brigadier General M. D. McAlester, major of engineers, the officer charged with the survey, &c.

The views of General McAlester are concurred in. The maps referred to in the report will be transmitted as soon as they can be copied.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,  
*Brigadier General of Engineers Commanding.*

HON. E. M. STANTON,  
*Secretary of War.*

UNITED STATES ENGINEER OFFICE,  
*New Orleans, Louisiana, December 30, 1867.*

**GENERAL:** By engineer department letter, dated Washington, March 12, 1867, I was ordered, in addition to my other duties, as soon as practicable, to cause a survey to be made of Bayou Manchac, connecting with the Amite river, and leading into Lake Maurepas and Pass Manchac, connecting Maurepas and Lake Pontchartrain, and to submit a plan and estimate of the cost of opening said stream and bayous to first-class steamboat navigation—the project to include the opening of the head of Bayou Manchac in the Mississippi river, and connecting the navigation of that river with the streams and lakes mentioned.

In pursuance of these orders, I assigned First Lieutenant I. K. Hezlep, corps of engineers, to the duty of conducting the field-work of the examination and survey, about the 20th of April last, (he having returned from Fort Morgan on the completion of the operations under his superintendence at that place,) supplying him with the necessary instructions, verbal and written, for the purpose. Copies of his report and estimates, and accompanying maps, (with profiles, sections, &c., marked A,) are herewith submitted.

The completion and transmittal of this report has been delayed by the death of Lieutenant Hezlep, of yellow fever, which took place on the 13th of August last, and before the estimate could be fully completed, (as to the cost of the locks, flood-gates, &c.,) and by the subsequent suspension of all engineering operations under my charge in this vicinity on account of the yellow fever epidemic.

Lieutenant Hezlep's report is respectfully referred to for a very full description of the features and peculiarities of the channels and water-ways surveyed, their tributaries or branches, the country adjacent, and the soil to be dealt with. In connection with the difficulties and cost of establishing and maintaining the proposed continued channel for navigation between the Mississippi river and Lake Pontchartrain, the following considerations, resulting from the floods to which the Mississippi is annually subject, should also be borne in mind, viz:

1. The liability to extensive deposits in and in front of the river entrance of the proposed Bayou Manchac canal, incidental to a shifting of the river bed towards the west bank, necessitating proportional excavations as the flood gradually subside.

2. Incidental to the liability of the river to shift its bed towards its easterly bank, the tendency of the waters to cut away the river bank where the junction is made, undermining the flood-gates and locks, and convert the canal into a crevasse, flooding and damaging not only the canal and the proposed channel way to Lake Maurepas, but the neighboring country and plantations.

3. The liability to crevasses in the Mississippi levees above and below the Bayou Manchac, causing the flooding of the proposed channel and canal, and of all the swamps and bottoms between the reverse slope of the river and Lake Maurepas. The great crevasse of 1862, which occurred in the vicinity of Bayou Manchac, and between it and Baton Rouge, caused the water to rise in these swamps and bottoms to a line two and one-half miles from the river, and to a level twenty-two feet above the normal level of the water surface in the proposed channel and canal. (See map A for high-water line and mark of this crevasse.)

The second and third dangers are liable to be realized during the progress of excavations and constructions connected with the proposed Bayou Manchac canal navigation, to the injury of important parts of the work, and perhaps the total destruction of others. The power of Mississippi floods is too great to admit of control to the extent of obviating the first and second liabilities. The danger resulting from the third might be guarded against by means of levees on both sides of the proposed channel way, extending from near Lake Maurepas to the vicinity of the Mississippi levee. These are not, however, included in the

project and estimates. The expense entailed by any flooding of the excavations and constructions in the proposed canal during their progress, though they might be very great, are of so indefinite a character as not to admit of estimates.

The dimensions of the largest first-class steamboats now employed on the Mississippi river are as follows: Great Republic, 330 feet long, 95 feet beam, 6 to 7 feet draught, loaded; Richmond, 340 feet long, 86 feet beam, 6 to 7 feet draught, loaded; but as boats of the peculiar construction adapted for river navigation cannot be trusted on Lake Pontchartrain, much less on the Mississippi sound, I have taken the steamboats of the "Morgan Line," plying between this city and Mobile, through Lake Pontchartrain, Mississippi sound and Mobile bay, as specimens of "first-class steamboats," such as are alluded to in the order directing the survey, these being in every sense first class steamboats, with side wheels, and so constructed as to navigate the Mississippi river as well as the other waters named with safety and efficiency. The largest of these is the "Mary," 235 feet long, 60 feet beam over all, (including the guards necessary for side wheels,) and 6 feet 6 inches draught for ordinary loads. Vessels drawing more than 6 feet 6 inches find difficulty in navigating the lake and portions of the sound.

On this basis I have assumed the locks to have in the clear 250 feet length, 65 feet width; and the channel-way between the locks and Lake Pontchartrain to have a width at the bottom of forty-five yards; the depth of water at extreme low-water being seven feet, which width will permit boats to pass each other readily at low speed. The arrangement of gates for locks so wide, sufficiently strong, and admitting at the same time of easy and rapid manipulation, will present considerable difficulty; but possibly the difficulty may be overcome by adopting gates of heavy construction and of great strength, moved by auxiliary machinery; otherwise the boats might be reduced in width to 30 feet or 35 feet, by substituting screw propellers or stern wheels for side wheels; but with such modifications they could not be classed as "first class steamboats."

### *Project.*

#### PROPOSED CHANNEL FROM LAKE PONTCHARTRAIN TO BAYOU CROCODILE.

The reverse slope of the bank of the Mississippi river at the locality of Bayou Manchac terminates at Bayou Crocodile, and the surface of the ground bordering the proposed channel from Lake Pontchartrain to the latter bayou is essentially level, admitting water throughout its extent corresponding in level (during the absence of floods) with tide-water in the lakes. It is therefore proposed to make the excavations in this portion of the channel, necessary to give it a depth at lowest water of at least seven feet, and a width of at least forty-five yards, by means of floating dredging machines, similar to those used for excavating the numerous canals through the swamps intervening between the settled portions of the city of New Orleans and Lake Pontchartrain. Excavations will be necessary at the following named localities only: the bar at the Pontchartrain end of Pass Manchac; the bar at the Maurepas end of Pass Manchac; the bar at the mouth of Amite river, cut-offs, and widenings of Amite river at eighty-three different points between its mouth and New river; the channel of Amite river, known as New river, (see map where this channel is also marked as the locality of "Set No. 2" of Lieutenant Hezlep's cross sections;) and Bayou Manchac from its junction with Amite river to Bayou Crocodile; amounting to 2,518,897 cubic yards, as estimated by Lieutenant Hezlep, (see his report.)

#### BAYOU CROCODILE TO MISSISSIPPI RIVER.

That part of the proposed channel line comprised between Bayou Crocodile and the Mississippi river is marked by so much of old Bayou Manchac as lies upon the reverse slope of the Mississippi river bank. At low water on the bayou (during

absence of floods in the Amite) depths of water varying between 0 and three feet six inches are found above the mouth of Bayou Crocodile to a point 1,650 yards from it. Above this point the bayou is dry, except during seasons of floods in the Amite, (when the water backs up the bayou a mile or two further, and crevasses in the Mississippi levees occurring in the vicinity, (during the crevasse of 1862 it contained three feet depth of water at its head just outside the levee.) The bayou is closed, (and has been, according to the reports, since the time of General Jackson,) by a dam in continuation of the levee.

The bottom of the bayou at its head is thirteen feet six inches above low-water mark in the Mississippi, and floods in the latter exceeding that height would send water through the former channel-way in the absence of the dam now closing it.

It is evident, therefore, that the conditions of the case are such (see also Lieutenant Hezlep's report) that the section of the proposed channel here in question must be in all respects a canal.

And as there are no intermediate sources at higher levels whence water can be had for its service, the canal must have a single level, supplied at one end, corresponding to extreme low water, to serve for navigation at such stages of water. Furthermore, although lowest water level in the Mississippi river, as adopted in this report from observations hitherto, is two feet and three-quarters of an inch higher than extreme low water in the proposed channel way comprised between Bayou Crocodile and Lake Pontchartrain, (corresponding to low tide in the latter,) the difference between the levels is liable at some time in the future to diminish. At all events the low-water level in the river is variable, while that of tide-water is essentially constant. It will be judicious, therefore, to place the canal level at the level of low-tide water, as shown at Bayou Crocodile, establishing the canal bed at a level (continuous between this point and the river) seven feet below the tide level named. [It should be noted that the ordinary tide oscillations felt in the lakes, averaging about four-tenths of a foot (see Humphrey's and Abbott's report, page 106) are not perceptible at this point, being overcome by the wind and the long and tortuous channel intervening.] Communicating directly with this level a lock is proposed, to be placed in the main channel near the river. As the river attains higher levels under the influence of floods, other locks corresponding to these levels must be brought into requisition. These additional locks it is proposed to place in auxiliary side canals, communicating with the main canal at a point between the lowest lock of the flight (the one first named) and the river. The total excavation for these canals, main and auxiliary, is estimated at 6,840,732 cubic yards.

#### LOCKS.

The maximum oscillations of the Mississippi river at Baton Rouge and Donaldsonville are respectively found by adding .05 feet (see table, page 170, Humphrey's and Abbott's report) to 34.3 feet, and 27 feet, (see table, page 109, Humphrey's and Abbott's report,) and amount to 34.8 and 27.5 feet respectively. Interpolating on the supposition that the surface planes of the river have a uniform slope between these two points, the maximum oscillation at the head of bayou Manchac is found to be 32.98 feet. Correcting this result by information obtained from intelligent persons residing in the immediate vicinity, I have assumed, for the purposes of this report, 32 feet as the amount of the oscillation at the latter point. Adding two feet for difference of level between low water in the river and the canal, there results 34 feet for the total lift between low water in the canal and high water in the river. This lift it is proposed to overcome by four locks of nine feet lift each, thus allowing a margin of two feet for floods higher than hitherto recorded. The lowest lock, or lock No. 1, is to be placed in the main canal as above stated. In order that the navigation may remain uninterrupted during all stages of the river, the other three locks are to

be placed in three branching side canals, as illustrated by fig. 3, (see map.) Lock No. 1 would alone be used for all stages of the river not more than nine feet above tide-water. The river rising more than nine feet above tide-water, flood-gate No. 1 (see fig. 3) is to be introduced, and lock No. 2 brought into use in connection with lock No. 1. When the flood reaches a height of 18 feet and more, (referred to tide-water,) flood-gate No. 2 is to be placed in position, and lock No. 3 used in connection with locks Nos. 1 and 2. For heights exceeding 27 feet, flood-gate No. 3 is to be used, and all four of the locks. Fig. 3 fully illustrates the plan proposed, and the use of the locks and flood-gates for all stages of water. The still water backing into the bayou and canal from floods in the Amite will not interfere with the working of the lock and flood-gate system.

The interior horizontal dimensions of the locks will be, as before stated, as follows: 250 feet long, 65 feet wide; their interior depth will be 18 feet, their upper and lower gates will be 18 feet high. It is proposed, for obvious reasons, to construct the locks of timber, founding them upon areas of piles, driven about six feet apart, measured on lines parallel and perpendicular to the axis of the locks.

It is proposed to construct the locks essentially like the "Vallette floating dock," (a description of which, by Lieutenant D. W. Payne, corps of engineers, is appended,) since the strains to be resisted are essentially the same in the two cases. The principal modifications would consist in dispensing with the sides, ends, and backheads appertaining to the dock's hold, bringing the bottom of the hold up in contact with the deck of the dock, increasing the strength of all the stanchions employed in the sides, and introducing diagonal braces.

It is estimated that each lock foundation (including the usual accessories) will require 13,000 piles, each from 20 to 35 feet in length; and that the superstructure (including the capping of the piles) will require 3,975,200 feet of timber, board measure.

#### FLOOD-GATES.

Owing to the loose and treacherous character of the soil and substrata to be dealt with, the establishment of flood-gates of adequate strength and stability will be an engineering problem of the greatest difficulty. Three flood-gates at least will be required, each sixty-five feet wide. Flood-gate No. 1 is to be forty-five feet high (reaching four feet above high water) and must be able to sustain a head of water of twenty-five feet, (deducting nine feet, the lift of lock No. 1, from thirty-four feet the total maximum left.) Gate No. 2 must have a height of thirty-four feet, and sustain a head of water of sixteen feet. Flood-gate No. 3 will be twenty-five feet high, and must resist a head of seven feet.

Whatever the character of gates adopted, the abutments and foundations supporting them should be of the most substantial character; and as the treacherous nature of the substrata renders the use of heavy masonry hazardous and enormously costly, it is proposed to employ timber alone (swamp cypress) for this purpose, with piles for foundations.

It is proposed to form flood-gate No. 3, and the lower section of each of the others, by means of a caisson, similar and similarly manipulated to the one used for closing the entrance of the Brooklyn navy yard dry dock, the vertical sections of which are rectangular, and the horizontal ones two equal curves joining at their ends with their convexities outwards; the caisson to be twenty-five feet high, so that when sunk into position the top shall be seven feet higher than the top of the corresponding lock. The remaining eighteen or twenty feet of gate No. 1, and nine or eleven feet of gate No. 2, it is proposed to form by means of several open-built beams, having an outline corresponding to the horizontal section of the caissons interposed flatwise on the latter and on one another. The caissons to be floated and sunk into position, where they will rest on the foundation at the bottom of the canal and against the abutments. The beams to be superposed as the river rises by means of derricks or cranes established on top



of the abutments, and placed also with their ends resting against the abutments, where the pressure of the water will retain them, their flotation being neutralized by adequate weights placed on the uppermost one. The average number of piles estimated for the flood-gates is 300 each.

*Estimates.*

**SURVEY.**

For finally locating and laying out the entire work.....	\$10,000 00
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**CLEARING GROUNDS READY FOR WORK.**

For felling trees on space occupied by the channel, and on space 20 yards wide, on either side, 900 acres, at \$5 per acre....	4,500 00
Clearing drift-wood out of Bayou Manchac, 8 miles, at \$200 per mile.....	1,600 00

**EXCAVATIONS.**

Bars in Lake Pontchartrain and Maurepas, Amite river, and Bayou Manchac, between Lake Maurepas and Bayou Croco- dile, 2,578,897 cubic yards, at 25 cents per yard.....	629,724 25
Canal and side canals between Bayou Crocodile and Missis- sippi river, 6,840,732 cubic yards, at 30 cents per yard....	2,052,219 60

**LOCKS.**

For each lock 13,000 piles, purchased, prepared, driven, and trimmed ready for the reception of the timber of the super- structure, are estimated to cost \$7 each, amounting to...	91,000 00
For the superstructure, (including capping of piles and gates,) 3,975,200 feet, board measure, of timber, purchased, delivered, framed, and built into the lock, (including all carpenter and joiner work,) is estimated to cost 4 cents per foot, amounting to.....	159,008 00
4 locks, at \$250,008 each.....	1,000,032 00

**FLOOD GATES.**

For 3 flood-gates, 900 piles, driven and completed, at \$7 each, (\$6,300;) 21,600 feet, board measure, of sheet piling, (plank 12 feet long and 4 inches thick,) at 4 cents per foot, (\$864;) 3 caissons containing 175,500 feet, board measure, of timber, carpenter, joiner, calker, iron, and painters' work, included, at 4½ cents per foot (\$7,897 50;) grillage complete, 26,000 feet, board measure, of timber, at 4 cents per foot, (\$10,400;) 6 abutments complete—2 of them 45 feet high, 2 of them 36 feet high, and 2 of them 27 feet high—total height of 216 feet, containing 1,101,600 feet, board measure, (facing, backing, and ties,) at 4 cents per foot, (\$44,064,) and open built beams complete, forming the portions of flood-gates Nos. 1 and 2, superposed in the caissons for the total height of 31 feet, 63,180 feet, board measure, at 4½ cents per foot (\$2,843;) aggregate cost ready for use.	72,368 60
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**AUXILIARY MACHINERY.**

Machinery for manipulating and handling lock-gates and flood-gates, estimated.....	30,000 00
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Grand aggregate.....	3,800,444 45
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The above estimates are very close, and are more likely to prove too small than too great, especially those relating to the excavations. The very lowest rates at which ordinary levee embankments can now be made in this vicinity is 33 cents per yard, although the embankments and corresponding excavations whence the earth is taken are in very near proximity, and the soil to be dealt with quite dry. Much of the proposed canal excavation will require the earth to be elevated through considerable heights, and transported over considerable distance, and much difficulty will arise from the presence of water in the lower portions of the excavation.

Of all the channel ways forming connection, or partial connection, between the Mississippi river and the lake and sound, the one proposed is least favorable in all respects for extension and improvement as proposed. On account of the greater oscillations of the Mississippi river, and the greater width of the reverse slope of the river bank at the point of junction, and the greater length to be improved, the cost, both of its improvement and preservation, will be vastly greater than many other and much preferable lines that are available, and the liability to accidents leading to interruptions of navigation, and even the destruction of the work, far more imminent. The channel proposed, when completed ready for navigation, will be less useful and convenient than many others that might be selected, since it will present about 75 miles of intricate navigation between the river and Lake Pontchartrain, which cannot be accomplished at a speed exceeding 5 miles per hour, the whole time required for the passage, including locking, being about 16 hours.

A canal connecting the lake directly with the river, at almost any point between Bonnet Carré Bend and the city of New Orleans, would, in all respects, be preferable. (See map marked B.) At several such points the canal would not exceed 6 miles in length, and for more than half this length the depth of the excavation would not exceed 9 feet.

Were it a question of merely connecting the river with Mississippi sound and its branches and inlets, a canal connecting the river with Lake Borgne, between the Chalmette line of fortifications and English Turn, (see map B,) would be still more advantageous and feasible in all respects. There are at least two bayous heading within three miles of the river, and affording seven to sixteen feet of water thence to Lake Borgne, which latter affords eight to ten feet of water from the bars at the bayou mouths to the sound.

As an example of these several preferable connections, I caused to be made a survey of the line connecting the river, at a point about midway between Carrolton and Camp Parapet, with "the new canal" at a point near Metairie Ridge, (Bayou Metairie, see map marked C,) with estimates of the cost of completing the entire connection between the river and the lake according to the requirements specified, viz., width 45 yards, depth of water 7 feet, and suitable locks and flood-gates.

The difference of level between high water in the river and low tide in the lake is about 17 feet, (see Humphrey's and Abbott's report, pp. 109, 113, and 170,) and but two locks and one flood-gate will, therefore, be required.

#### *Estimate.*

##### SURVEY.

Laying out and marking the work . . . . .	\$3,000 00
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##### CLEARING GROUND.

Clearing trees from 30 acres of ground, at \$5 per acre . . . . .	150 00
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##### EXCAVATION.

1,030,344 cubic yards of excavation, at 25 cents per yard . . . . .	257,586 00
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## LOCKS.

2 locks complete, at \$250,008 each..... \$500,016 00

## FLOOD-GATES.

For one flood-gate complete, (including foundation, abutments,  
and the caisson)..... 19,187 16

## AUXILIARY MACHINERY.

Machinery for manipulating locks, gates, and flood-gates, esti-  
mated..... 6,000 00

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785,939 16

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The "new canal" is at present about 60 feet wide, and has 6 feet of water, and terminates at the "new basin," a little less than one mile from the river. It is owned by the State of Louisiana, (having lately reverted to it,) and is leased to private parties for a term of years, one of the terms of the lease requiring that the lessees widen and deepen the canal. Some progress has been made in widening it to 100 feet, and deepening it to about 9 feet. To remove the cypress stumps requires the excavation to be 9 feet deep in the first instance. After the removal of these, which is usually done with Osgood's excavator, there is no difficulty in obtaining, say, 16 feet depth with the same machine. All similar excavations in the swamps bordering the lakes and the low ground bordering the river are made by this machine. It is set up on a scow which floats in the water with which the excavations fill as fast as they are made.

Supposing the proposed connection to be made at any point below Bonnet Carré Bend, the locks and flood-gates could be entirely dispensed with by terminating the canal at a point, say, 45 yards from the crest of the levee or river bank, and providing facilities, say cranes, or platforms on wheels, worked by steam, for transferring freights rapidly between boats in the two waters. By this arrangement any boats or vessels now on the river, and the shallow tide-water of the lakes and sound, or which may be hereafter introduced, could be brought to the point of transfer and exchange cargoes.

The great cost and risk attending any device for connecting the waters of the Mississippi river continuously with those of the lakes would also, by this arrangement, be avoided.

Very respectfully, your obedient servant,

M. D. McALESTER.

*Brevet Brigadier General, Major of Engineers.*

Brevet Major General A. A. HUMPHREYS,

*Brigadier General and Chief of Engineers, Washington, D. C.*

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NEW ORLEANS, LA., July 31, 1867.

SIR: In compliance with your letters of instructions, dated New Orleans, Louisiana, April 22 and 29, and May 8, I have the honor to report that I proceeded with a surveying party to Bayou Manchac on the 24th day of April, and made an examination and survey of that bayou, the Amite river, and of the bars at the mouth of the Amite river, and at the east and west ends of Pass Manchac.

The object of the survey being to ascertain, as near as practicable, the amount of excavation necessary, in order to render the streams mentioned navigable for steamers of the first class, (those of the Morgan line, between this city and

Mobile, being taken as a standard,) it was assumed that the channel should be at least 45 yards wide at the bottom, with a depth of seven feet, the banks having a slope of one in one; and the calculations which follow are based upon this assumption.

Cross sections of the bayou were taken every fifty yards. The "0" of vertical measurement being taken at low water at the section, unless the channel is dry at low water; horizontal measurements in yards, vertical in feet.

The sections were arranged in five sets, each set of sections being continuous; set No. 1, extending from the Mississippi river to the Amite river; set No. 2, covering that portion of the Amite known as New river; set No. 3, the bar at the mouth of the Amite river; sets Nos. 4 and 5, the bars at the west and east ends of Pass Manchac respectively. The sets and sections were numbered from the Mississippi eastwardly.

The work progressed favorably, and was finished on the 20th of May, 1867. The water being high, and the current rapid, in the Amite river, in consequence of the spring flood, some of the measurements given relating to that river are necessarily inaccurate, but the errors are small, and, it is thought, compensating.

The bayou, for a distance of eight miles from the Mississippi river, (to Bayou Crocodile,) is filled with logs, growing trees, and undergrowth, and is dry at low water to within a mile of this point. To the Crocodile it has an average width of about twenty yards; from this point to Ward's creek, it has an average width of thirty yards; but it is obstructed by falling and leaning trees, logs, &c. From Ward's creek to the Amite, it has been cleaned out, and is navigated by a small steamer, there being a depth of seven feet nearly all the way up at low water.

At low water, the current in the Manchac is dependent entirely upon the wind, high easterly winds backing the water up the Amite, causing it to flow up the Manchac.

The Manchac has three tributaries, which carry into it the drainage of a large portion of the country extending from Baton Rouge, above, down to New River Landing, below. Of these the Crocodile is the most important, being the outlet of Spanish lake, which receives all the drainage from Bayous Paul and Brand. It is, at high water, about twenty-five yards wide at the water surface; at low water it is dry, for part of its length. The next inlet is Bayou Fountain, which drains a large portion of the high land, and of the land between Baton Rouge and the head of the Manchac. Along the river, Ward's creek is the last stream of any importance which flows into the Manchac, and it, at low water, discharges but little water. None of these tributaries are high enough to supply reservoirs to feed the canal proposed.

At the junction of the Manchac with the Amite river, a bar has formed some twenty yards wide, and extending down the river for fifty yards. There are but three feet of water on this bar when the river is at its lowest stage. From this point down to what is known as New river, and from New river to Lake Maurepas, the Amite river is generally over forty-five yards wide, and from twelve to twenty-five feet deep at low water. New river is of an average width of thirty-eight yards, and is very crooked and deep.

The Bayou Manchac and Amite river are bordered throughout their whole length by heavy forests, with the exception of a few plantations and landings. In many places the trees overhang the bank, both of the river and the bayou, so as to render navigation difficult and dangerous, even for small steamboats. In the highlands are found pine, ash, and oak; in the swamps, cypress, gum, water-oak, &c.

The soil along the Manchac is a stiff clay, growing firmer as you leave the Mississippi river, the coarser materials being deposited near the Mississippi bank. The banks of the Manchac have a reverse slope, similar to that of the Missis-

issippi, there being, however, a greater fall in the same distance. Along the Mississippi the average reverse slope of the natural bank is about seven feet in the first mile, while along the bayou the average reverse slope is about *three* feet in the first hundred yards. At the mouth of the Manchac the soil becomes mixed with sand, but the proportion is small, and does not, in any way, obstruct the channel by forming bars; and, in fact, at the points where shallow water could be expected, the banks are, in places, from twelve to fifteen feet high, and stand almost perpendicular.

The high water of the spring backs up the Manchac so as to give, in many places below Bayou Crocodile, a depth of twenty feet and over, overflowing a large portion of the country on the south side; and, falling rapidly, a very rapid current is formed, rendering navigation extremely difficult.

The slope back from the Mississippi, along the Manchac, is most rapid for the first two miles, when it becomes more gradual. In order to make the estimate of the excavation more accurate, avoiding the error of assuming the slope from the Mississippi to the Crocodile as uniform, a line of levels was run from the head of the Manchac to its junction with the Crocodile, and the following results obtained:

Difference of level of natural bank of Mississippi, in first two miles and a half, is eight feet five inches; between this point and the Crocodile, (when the direction of current, at low water, is dependent entirely upon the direction of the wind, and the rise and fall of the Amite,) eleven feet three inches; making a total of nineteen feet eight inches.

Difference of level between extreme high water in Mississippi of 1862, and extreme low water in the bayou at the Crocodile, thirty-four feet and three-fourths of an inch. The extreme fall of the Mississippi river being thirty-two feet, nearly, this gives the difference of level between low water in the Mississippi and in the Manchac at two feet and three-fourths of an inch.

As there is no body of water near the Manchac which can be used as a reservoir to supply locks for different levels in the canal, it must be excavated down low enough to give the required draught of seven feet at low water, which places the bottom of the canal nine feet below the low-water line of the Mississippi river, or thirty-seven feet seven inches below the natural bank of the Mississippi, at the crest of the channel bank.

To overcome this rise at least four locks will be required, placed in four different side canals, a project for which is appended.

*Amount of excavation required, and the estimate of the cost of the same.*

* From Mississippi river to Bayou Crocodile, 6,295,394 cubic yards, at 30 cents per yard.....	\$1, 888, 618 20
Side canals for locks, 545,338 cubic yards, at 30 cents per yard.....	163, 601 40
* From Bayou Crocodile to Amite river, 1,903,520 cubic yards, at 25 cents per yard.....	475, 880 00
New river, 96,783 cubic yards, at 25 cents per yard.....	24, 195 75
Points of Amite river, 464,000 cubic yards, at 25 cents per yard.....	116, 000 00
Bar at mouth of Amite, 9,668 cubic yards, at 25 cents per yard.....	2, 417 00
Bar at west end of Pass Manchac, 24,077 cubic yards, at 25 cents per yard.....	6, 019 25
Bar at east end of Pass Manchac, 20,849 cubic yards, at 25 cents per yard.....	5, 212 25
	<hr/>
	2, 681, 943 85

\* In all cases where the canal follows the existing natural channel-way the cubature of the latter is deducted in estimating the excavation for the canal.

*Timber and lumber for one lock.*

13,000 piles, 20 feet to 35 feet long, 1 foot in diameter, at  
 3,125,200 feet of 12-inch by 12-inch timber, board measure, at  
 600,000 3-inch plank for sheeting and gates, at  
 250,000 12-inch by 12-inch timber, gates, at

The cost of a project for opening a canal from near Camp Parapet, on the Mississippi river, just above Carrollton, to the point near the Metairie ridge, where the New canal crosses it, and of widening and deepening "the New canal" from that point to Lake Pontchartrain, is as follows :

	Cubic yards.
For canal 300 yards long, 17 feet 1 inch deep, and 24 yards wide, for lock at low water .....	50, 820
For canal 200 yards long, 9 feet 4 inches deep, and 24 yards wide, for lock at high water .....	16, 874
For canal from Camp Parapet to foot of slope, 1½ mile, 45 yards wide, and from 17 feet 1 inch to 8 feet 6 inches deep .....	560, 340
For canal from foot of slope to New canal, at Metairie ridge, 45 yards by 8 feet 6 inches, and widening and deepening New canal, thence to Lake Pontchartrain .....	402, 310
	<hr/> 1, 030, 344 <hr/>
1,030,344 cubic yards of excavation, at 25 cents per yard .....	<hr/> \$257, 586 <hr/>

In opening either of these canals an item of some importance must be considered, the deposit in the lakes of the sediment from the Mississippi river. This will be constantly going on, and will be accompanied with considerable expense.

Very respectfully, your obedient servant,

J. K. HEZLEP,

*First Lieutenant Corps of Engineers.*

Brevet Brigadier General M. D. McALKSTER,

*Corps of Engineers.*

NEW ORLEANS, LA., *June 18, 1867.*

SIR: I submit herewith a description of the Valette floating dock at Algiers, the largest one in the river.

*Dimensions.*—Length of hold, 260 feet; length of outriggers, 50 feet; depth of hold, 10 feet; breadth of dock at deck within sides, 83 feet; same at top, 91 feet 5 inches; width of sides between sheathing, 5 feet.

Draught of ship can take 18 feet.

The bottom of the hull is composed of outer planking 3 inches thick, floor timber 12 by 12 inches, two feet apart, placed athwart ships; timbers 12 by 12 inches in juxtaposition, bolted through and through, running fore and aft; timber 12 by 12 inches, 3 feet apart, athwart ships; and inner planking 3 inches thick.

The deck is composed of timber 12 by 12 inches, 2 feet apart athwart ships, and 3 inches deck plank. The sides of the hold are composed of upright stanchions 12 by 12 inches, two feet apart, and planking 3 inches thick. The hold is divided along its axis by a bulkhead 42 inches thick; on either side of this, and parallel to it, are two others 1 foot thick. There are seven bulkheads 1 foot thick, running athwart ships,



The hold is thus divided into 48 water-tight compartments, from which pipes lead to the pumping wells.

The outer sheathing of the sides of the dock is 3 inches thick, and the stanchions 5 by 10 inches, and from 2 to 3 feet apart. The inner sheathing is 3 inches thick, and the stanchions are 5 to 8 inches, and from 2 to 3 feet apart.

There are two outer and two inner clamps 6 inches by 2 feet on each side.

In each side there are eight water-tight compartments, and four pumping wells.

There is such an arrangement of valves that any one of these compartments can be filled or emptied separately. There are four discharging and four receiving valves on each side. Two engines of 2 feet stroke and 11 inch bores, and 16 pumps, 20 by 20 inches, are employed in pumping out the dock.

The capacity of the pumps is such as to raise a vessel drawing 14 feet of water in forty minutes. I was unable to ascertain the speed at which the engines are usually run, so as to determine the amount of water discharged per second.

The same length of time is required to sink as to raise the dock.

About 1,080 pounds of coal are used in raising a vessel drawing 14 feet.

The capacity of the dock is about 2,500 tons, and its cost \$168,000.

Very respectfully, your obedient servant,

D. W. PAYNE,  
*First Lieutenant Engineers.*

Brevet Brigadier General M. D. McALESTER,  
*Major of Engineers.*

Sent to headquarters engineers with letter of January 10, 1868, and three maps, marked A, B, and C.

M. D. McALESTER,  
*Brevet Brigadier General Major of Engineers.*

LETTER  
OF THE  
SECRETARY OF WAR,  
COMMUNICATING

*Maps necessary to complete the report by General McAlester relative to the survey of Bayou Manchac, made in compliance of a resolution of the Senate of March 11, 1867.*

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FEBRUARY 24, 1868.—Referred to the Committee on Commerce.

FEBRUARY 27, 1868.—3,000 additional copies ordered to be printed for the use of the Senate.

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WAR DEPARTMENT,  
*Washington City, February 20, 1868.*

SIR: I have the honor to send herewith a communication of February 19 from the Chief of Engineers, with maps which are necessary to complete the report by General McAlester, relative to the survey of Bayou Manchac, made in compliance with the Senate's resolution of March 11, 1867. When, on 27th January last, the report was sent to the Senate, the maps were in the hands of the draughtsman.

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

Hon. B. F. WADE,  
*President of the Senate.*

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HEADQUARTERS CORPS OF ENGINEERS,  
*Washington, February 19, 1868.*

SIR: I transmit herewith copies of the maps—three in number—to accompany the report of Brevet Brigadier General McAlester, corps of engineers, on the survey of "Bayou Manchac, connecting with the Amite river, and leading into Lake Maurepas and Lake Pontchartrain," made in compliance with a resolution of the Senate of the United States of March 11, 1867. The report was sent you on the 25th ultimo, the maps being at that time in the hands of the draughtsman.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,  
*Brigadier General of Engineers, Commanding.*

Hon. E. M. STANTON,  
*Secretary of War.*



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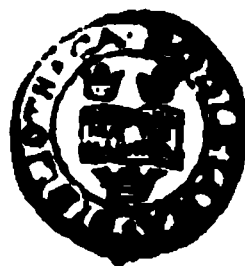








LETTER  
OF THE  
SECRETARY OF THE TREASURY,  
COMMUNICATING,



*In compliance with a resolution of the Senate of the 17th of February last, information in relation to the compromise of certain suits known as the Dennistoun cotton suits.*

MARCH 2, 1868.—Ordered to lie on the table and be printed.

TREASURY DEPARTMENT,  
*February 29, 1868.*

SIR: In reply to the resolution adopted in the Senate of the United States on the 17th instant, requesting the Secretary of the Treasury to furnish to the Senate the name or names of the eminent counsel referred to in his reply of January 16th, ultimo, to the resolution of the Senate, adopted December 9, 1867, as having advised a compromise of certain suits in New York, known as the Dennistoun cotton suits, together with copies of their opinions, &c., I have the honor to transmit the annexed copies of correspondence and documents filed in the records of the Treasury Department, containing the information asked for:

1. Letter of the Attorney General to the Secretary of the Treasury, dated July 10, 1867.
2. Letter of Messrs. Hughes, Denver & Peck to the Secretary of the Treasury, dated August 8, 1867.
3. Letter of James W. Denver to the Secretary of the Treasury, dated August 14, 1867.
4. Letter of the Secretary of the Treasury to Hughes, Denver & Peck, dated October 25, 1867.
5. Opinion of Hon. Caleb Cushing, of October 29, 1867.
6. Letter of the district attorney of the United States for the southern district of New York to the Secretary of the Treasury, dated November 4, 1867.
7. Letter of the Secretary of the Treasury to Hon. William M. Evarts, dated November 4, 1867.
8. Release of claim by Dennistoun & Co., stipulation with plaintiff's attorneys, and order of the court.

The compromise and settlement was arranged with Hon. William M. Evarts, counsel for Dennistoun & Co., the department acting under the advice of Hon. Caleb Cushing and District Attorney Courtney. Assistant Secretary Chandler, who was familiar with all matters of this nature, also took part in and advised this settlement.

Respectfully, your obedient servant,

H. McCULLOCH,  
*Secretary of the Treasury.*

The PRESIDENT of the Senate of the United States.

ATTORNEY GENERAL'S OFFICE, *July 10, 1867.*

SIR: I have taken the earliest opportunity to examine the case brought to my attention by your letter of the 18th of April last.

It appears that an action of replevin is now pending in the circuit court of the United States for the southern district of New York, prosecuted by Messrs. Dennistoun and Company, of that city, against Mr. Simeon Draper, general cotton agent of the Treasury Department, in New York. The subject-matter of the controversy in this case arises out of sundry parcels of cotton shipped by the agents of the Treasury Department, in the State of Georgia, to Mr. Draper. This cotton is claimed by Messrs. Dennistoun and Company as the owners thereof.

You request me to advise you whether in my "judgment of the present and ulterior legal aspects of the case the Treasury Department ought, as a matter of administrative duty, to proceed in the maintenance of the assumed rights of the government on the course so far successfully pursued, or whether it should make such other disposition of the matter as may be deemed best for the interests of the government." You accompany your letter with various exhibits containing a statement of the case as understood by the department, with reports and depositions on the subject transmitted by the agents of the department, affidavits of various parties, as well on behalf of the claims of the government as of the plaintiffs, Dennistoun and Company. To all these are added opinions and arguments of counsel on both sides maintaining the respective claims of the parties.

After a careful perusal of all these papers, I find that all the important facts are contested. The law which must govern this case must arise out of actual facts when they are properly established. If it were a part of my duty to find the facts of the case, I could not, with the presentation of the case now made, undertake to perform that duty. The mode in which proof is attempted to be made is irregular, and, as to certain very important points, so defective, as to require further investigation and proof.

But if the case were properly presented upon the facts, it is not within my province to settle a controversy involving matters of fact. I can only give my opinion on questions of law. Where a question of law arises upon facts submitted to the Attorney General, such facts must be agreed and stated as facts established. As I have said, there is no such presentation of facts in this case on which I am authorized to act. I cannot, therefore, give you any opinion as to the "present and ulterior legal aspects of the case."

It is, perhaps, proper for me to say, in addition, that the case is so imperfectly prepared upon the facts that it does not seem to me that any disposition could now safely be made of it, so far as the government is concerned, other than to allow it to proceed in the court where it is now pending.

I have the honor to be yours, very respectfully,

HENRY STANBURY.

The SECRETARY OF THE TREASURY.

The papers are herewith returned.

WASHINGTON, D. C., *August 8, 1867.*

SIR: The Dennistoun cotton, as it is commonly called, amounting to about two thousand bales, was seized and shipped to New York at the instance of General J. W. Denver, of this firm, acting under a written contract with your department, by which we were to receive one-fourth of such property, secured and held by the government upon information furnished by us.

Special Agent Titus co-operated with General Denver, he having been at

pointed expressly to aid this firm in its transactions, under the contract above referred to, as his appointment and instructions will show.

A great deal of evidence was taken in the form of depositions against this cotton; it was all taken by General Denver and Mr. Murray, our employé. All the seizures were made under the personal superintendence of General Denver, the military being called in in every case. The seizures were military seizures at our instance, and Colonel Titus receipted to the military for the cotton on behalf of the Treasury Department.

The instructions issued and forwarded by the Treasury Department to Denver and Titus from time to time concerning the seizure and shipment of the Dennistoun cotton were for the most part issued at the instance and under the advice of James Hughes, of the firm of Hughes, Denver & Peck.

There was in all of the Collie cotton about seven thousand bales reported by us. Of this quantity all except about two thousand were got out of the country, the greater part by Dennistoun & Co., and if it was government property that firm is liable for it.

The two thousand bales were shipped to New York for sale. There suits were commenced in the State courts for the cotton, being actions of replevin. (See deposition of Lewis F. Anderson for the history of this cotton and the warehouse receipts.)

At this point you called on us to defend the suits as counsel, in conjunction with Mr. Courtney, the United States district attorney for the southern district of New York. Our contract with the department did not include the defence of lawsuits in the city of New York, and thus was superadded to our relation growing out of the contract the duties of special counsel in those suits.

You employed Mr. Charles Eames, also, in those suits, on the express ground that we had a contingent interest in them, and you thought we might be too zealous from that cause.

Under the written advice of all the counsel, you rebonded the cotton, as was permitted by the laws of New York, and the suits were removed to the United States district court. The question of the regularity of those removals was elaborately argued before Judge Nelson, of the United States Supreme Court, and the removals sustained.

Up to this point the claimants were defiant and confident. Pamphlets were issued, under the sanction of eminent names employed as counsel, severely reflecting upon the action of the department, and condemning the whole system of treasury seizures. Under authority of the department we replied to these pamphlets.

Since the decision of Judge Nelson the suits have rested, and no steps that we are aware of have been taken in them. We have held ourselves ready at all times to carry out the wishes of the department, but have received no instructions in the premises. Compromises have been offered us. We had no authority to make them.

We have learned that, without consulting us, and certainly against our judgment, the question of the further defence of these suits has been referred to the Attorney General. We have learned that propositions for compromise have been presented to and entertained by the department. Nothing of the kind has been referred to us. We have learned that the department has adopted Mr. Caleb Cushing as counsel in these cases, and has been acting under his advice. We have not heard from him, although he could not read the record without perceiving our connection with the cases.

Under these circumstances, being unwilling to stand responsible professionally for the management of business which is intrusted to another and conducted without consulting us, and deeming the relation of counsel and client a confidential one, requiring full conference and free intercourse between the parties, we are impelled, by justice to ourselves and delicacy to you, to afford you the



opportunity to relieve us from duty as special counsel in the New York suits except so far as necessary to represent and protect our one-fourth interest under our contract. To that extent we shall claim the right to participate in the management of these suits, or to be represented and protected in any adjustment or compromise affecting them.

We would gladly retire altogether from the business, and would make our own terms, so far as our interest of one fourth is concerned, if we had your sanction, without which we do not feel free to do so. Or, if it would relieve you of embarrassment in any degree, or facilitate a settlement of the business, we would compound with you at once and terminate all connection with the cases.

As matters stand at present, we insist on our interest of one-fourth and on our right to represent it.

It is with great surprise, in view of the record, that we have recently heard intimations that other parties claim to have caused the seizure of the cotton. To put that question to rest we need only refer to the record, to Special Agent Titus and his reports, and particularly to your order of January 6, 1866, for shipping the cotton. We deem it not inappropriate, however, to transmit the affidavit of Special Agent Willett, who collected and shipped all this cotton, showing that it was done under the personal supervision of General Denver, acting for this firm, and that no other person participated in it. A copy is enclosed.

We have the honor now to request that you will distinctly recognize our right to one-fourth of this property, under our contract, and either adjust and discharge the same or give the necessary instructions to all concerned to respect our rights and permit us to protect them. We expect to be advised of the action of the department in these cases, and consulted where our interests are affected. We will hold ourselves relieved of professional responsibility, so far as the interests of the department are concerned, unless invested with the necessary authority to represent them and consulted when steps are being taken in the business with all the confidence and absence of reserve that belong to such confidential relations.

We desire, and respectfully request, a definite answer at your earliest convenience.

Very respectfully, your obedient servants,

HUGHES, DENVER & PECK

Hon. HUGH McCULLOCH,

*Secretary of the Treasury.*

#### DISTRICT OF COLUMBIA, *County of Washington* :

James R. Willett, being duly sworn, states on oath that he was a special agent of the Treasury Department in the years 1865 and 1866, at Augusta, Georgia, and in that capacity seized and shipped the cotton commonly known as the Dennistoun cotton, amounting to about two thousand bales; said cotton was collected and shipped by affiant from different points, under a special order or appointment of Assistant Secretary Chandler. Affiant was instructed to act under the guidance of Special Agent Titus and Special Counsel J. W. Denver.

All of the Dennistoun cotton was seized and shipped upon information and instructions from J. W. Denver and Colonel Titus, who were acting together: said cotton was scattered about in various lots, some at Macon, some at Columbus, some at Albany, some at Americus, some at other points.

In every instance military force had to be employed to get possession of the cotton, and all the seizures were made under the personal superintendence of General J. W. Denver and Special Agent Titus.

If Mr. Frank Smith, or any other person besides Denver, Titus and Chandler, had any participation on behalf of the Treasury Department, in directing or causing the detention, seizure or shipment of the Dennistoun cotton, it never came under my observation.

JAMES R. WILLET.

Sworn and subscribed before me, this 5th day of August, A. D. 1867.

[SEAL.]

N. CALLAN, *Notary Public.*

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WASHINGTON, *August* 14, 1867.

SIR: In view of events that have transpired, and are now transpiring, in relation to certain cottons claimed by Dennistoun & Co., of New York, I deem it my duty to write you a short history of the case, and of our connection with it.

In consequence of certain information given by us, you, on the 19th of August, 1865, authorized Judge Hughes, of our firm, to recover for the United States certain coin and bullion which belonged to the confederate or rebel government at the time of the surrender of their armies, and for which you agreed to allow us one-third of all we should obtain. On the 30th of the same month this contract was extended so as to include all confiscable property which we might discover for the government. Afterwards this last was modified by you so as to reduce the allowance to us for discovery of cotton to one-fourth, but it remains the same in all other respects. Under the authority thus first given we recovered quite a considerable amount of coin, and turned it over to you, for which you allowed us the amount agreed upon for our compensation, that is thirty-three and a third per cent. of the amount recovered.

In the case of the Richmond banks, however, you, without any reason, repudiated this contract after we had established the right of the government to the coin and bullion, amounting to more than one hundred thousand dollars. It was turned over to the treasury, and we were then paid but about seven per cent., instead of the amount we had earned under our contract. It is true that you had the coin in your possession, but you had no sufficient evidence upon which to base a claim to it, and had already issued an order to turn it over to the claimants, when we intervened and proved, in the most conclusive manner, that it was confiscable.

You refused to permit this coin to be libelled in the courts of the United States under the acts of Congress, and for nearly a year delayed your decision, when Congress finally interfered and directed its payment into the treasury.

You admitted fully that we had been the sole means of enabling the government to hold the coin, and at the same time refused to recognize our rights under the contract before mentioned, upon the very narrow plea that we had not first pointed out the gold, and actually put you in possession of it, although this possession was just on the point of being relinquished by you, and was prevented by our action.

John P. Murray informed us that he knew of a great deal of confiscable property in the southern States, and under the authority you gave us on the 30th of August, 1865, we sent him down there, and in October following he began to take depositions at Augusta, Georgia, in regard to the cotton, a part of which is now in controversy. He met with so many difficulties, however, that it was deemed advisable for me to go down in person; and after presenting to you all the facts then in our possession you approved of the proposition, and at the suggestion, and on the request of Judge Hughes, you sent Colonel H. B. Titus along to co-operate with me, and aid me in our transactions.

On our arrival at Augusta, in November, 1865, we found that Mr. Murray

had discovered a great deal of property, and was endeavoring to get up the proofs to establish the right of the government.

I immediately went to work with him. At his instance, the military authorities notified the agents of Dennistoun & Co., Gibbs & Co., and others, that they would not be allowed to move the cotton they claimed. You were advised of every step taken by us, and the evidence forwarded to you as fast as taken, we retaining official copies. I returned here on the 2d of January, 1866, and after making my report, you deemed it sufficient to fix the status of this cotton, and telegraphed as follows :

TREASURY DEPARTMENT,  
January 3, 1866.

Forward all cotton claimed by Dennistoun & Co., and also by Gibbs & Co., without delay, to Simeon Draper, United States cotton agent, New York, marking it, and sending with it such information that he may identify and keep distinct each bale of each.

H. McCULLOCH, *Secretary of the Treasury.*

H. B. TITUS, *Treasury Agent, Augusta, Georgia.*

I went back to Augusta immediately, and there met Mr. Chandler, Assistant Secretary of the Treasury, and H. Waterston, esq. Mr. Peck, of our firm, was also there. Mr. Chandler, at my request, gave instructions to Major J. B. Willet, special treasury agent at Augusta, to collect the cotton, and ship it to New York, through J. C. Savary & Co., under their contract made with Mr. B. F. Murphy. On the way down, at Atlanta, I met Captain Wharton, special agent at Macon, and informed him of your order to ship this cotton, and told him to get what was in Macon ready for that purpose as soon as possible, which he promised to do.

There were but two hundred bales of the Dennistoun & Co. cotton at Augusta, the remainder being at Macon and other points in southwest Georgia, except a lot shipped by J. H. Anderson & Sons, to Savannah, part of which was wrecked on the way, but covered by insurance.

Colonel Titus, Major Willett, Mr. Murphy, and myself, went over to Macon, and while the treasury agents were busied with the cotton, I took the depositions of several very important witnesses. There we learned for the first time that Mr. Dillon, while supervising special agent, had, in company with Frederick Hall, an agent of Dennistoun & Co., called on J. H. Anderson & Sons, and asked for the warehouse receipts; and that a Mr. Frank Smith was with them. Anderson & Sons were the agents for Collie & Co., first, and afterwards for Dennistoun & Co., to look after these cottons, attending to storage, &c., and of course were informed of Mr. Hall's relations towards them. The warehouse receipts were delivered to Hall & Dillon, and afterwards by them returned to Anderson & Sons, with the exception of those for cotton stored with Harde-man & Sparks.

After this transaction Mr. Dillon gave Anderson & Sons a permit to ship the cotton, and under it they did ship the lot to Savannah before mentioned. If Mr. Frank Smith ever had anything more to do with this cotton than as here related, before it was shipped to New York, I never heard of it; and I will venture the assertion, without the fear of successful contradiction, that he never produced any evidence in support of the government. All the proofs furnished were taken by us, and after the cotton was shipped to New York we, in conjunction with other counsel, defended the government successfully in the suits therein instituted, and could have done so all the way through had you not conceived the idea that we were too zealous in the cause, and associated Mr. Eames with us, for the purpose, I suppose, of checking our zeal. This he came near doing most effectually by advising that the government should not re-bond the cotton. Had this advice been followed it would have been turned over to Dennistoun & Co., and that would have been the last of it, as was the case with

one hundred and thirty-six bales of it which were obtained by them because it was not re-bonded, and have ever since been dropped out of your calculations in reference to the net proceeds. Against this proposed action I most respectfully but earnestly enter my protest. The case is already as good as won for the government. There is nothing in it that ought to be compromised. The cotton either rightfully belonged to the government, or it did not. If it did, then the government is entitled to it. If it did not, then the claimants are entitled to it. Let the courts determine that question. By the proofs we have produced, and now on file in your department, we have established the following facts :

First, that the cotton in controversy belonged to Collie & Co., of England, who were noted blockade runners ; and we can establish the further fact that they were contractors aiding and abetting the rebellion.

Second, that Dennistoun & Co. are not the owners of this cotton, but only the agents of Collie & Co., to cover under their name property which they knew to be confiscable.

Third, that the pretence first set up by Dennistoun & Co. that they had bought the cotton through L. G. Watson from one Alexander Andreal, was false.

Fourth, that Andreal, Watson & Hall were agents for Collie & Co.

Fifth, that Supervising Special Agent Dillon did give a permit for the shipment of this cotton.

In the prosecution of this business we have met with the most unexpected difficulties, and such as we could not have possibly anticipated. We had a right to expect the hearty support and co-operation of the Treasury Department, but in that we have been grievously disappointed. The cotton claimed by Gibbs & Co. was released in spite of the unquestioned proofs of its confiscable character on file in your department, and the evident fraud of the claim set up by them, supported by affidavits that bore undoubted marks of falsehood. It is proper, however, that I should here state that I have been informed that, by some kind of legerdemain, the evidence furnished in favor of the government was withheld from the clerk to whom it was referred, and he had to make up his report from *ex parte* and false statements of J. S. Gibbs & Co. At the time this decision was made, I was on my way from the south with important additional evidence, but the case was hurried through and disposed of before my arrival.

In the Lamar case we did a great deal more than Frank Smith, or any one else besides ourselves in the Dennistoun case ; but in that you would not even recognize any claim on our part for it. We procured for the military a list of that cotton, with the marks and places where stored, and on this the seizure was made ; but you allowed another person one quarter of the whole lot merely for transporting it from Thomasville to Savannah, (which ought to have been done for two or three dollars per bale,) while our claim was entirely ignored. We still have an official copy of that list. The case of Salomon, Root & Co. was also disposed of before all the evidence could be got up here, although twelve hundred bales of cotton had been actually arrested and was under seizure.

In the case of E. Lawrence & Co., you promised that the interest of W. G. M. Davis should not be confiscated, and that we should have one quarter of whatever should be recovered. You gave us an obligation for one quarter, but after the rights of the government had been established beyond a doubt by the evidence furnished by us, you forgot that part of the agreement by which Davis was to have been secured, and he insisted that we should be accountable therefor, so that he has actually received twelve thousand dollars out of the sixteen thousand you allowed to us. Other cases have turned out a good deal in the same manner for us. I ought to state here that I have been informed that D. C. Anthony, once a treasury agent at Eufaula, Alabama, who had once released this cotton, presented a claim against it ; that he was backed by General B. F.

Butler, and supported by Mr. William E. Chandler in his pretensions, and that you allowed his claim to the amount of sixteen thousand dollars.

I might mention quite a number of other cases which were disposed of substantially in the same manner as some of those above mentioned, and others that were taken out of our hands without giving us any notice whatever, and placed in the hands of Colonel Titus, who had retained copies of all or nearly all the depositions and other papers obtained by us.

After my return here in March, 1866, although we were ready, willing, and anxious to attend to it, you gave Colonel Titus authority to follow up all the business which we commenced, except that against Sturgis, Peters, and others, which in a spirit of irony I recommended you to give to him also, and this was done very promptly.

Thus, little by little, all the business you originally contracted with us to prosecute has been taken from us until nothing is left but our interest in the cotton claimed by Dennistoun & Co., but which, if released, is actually the property of Collie & Co., who were probably the most active and persistent aiders and abettors of the rebellion outside of the United States.

Colonel Titus has been sent to Europe to follow up claims for the government reported by us.

The Dennistoun & Co. case was virtually taken out of our hands and given to Charles Eames first, and after his death to Caleb Cushing, as before stated.

The claims against Frazier, Trenholm & Co., and others, in Charleston, South Carolina, reported by us, have, we understand, been turned over to some one else.

All this has been done without notifying us of your intended action, and others have thus been enabled to reap the benefit of our labors.

I can conceive of no reason for this action on your part unless it be the result of enmity engendered towards my partner, Judge Hughes, by a certain person near you who was by him exposed for taking bribes. You have thought proper to retain that person in his position, notwithstanding the exposure of his conduct now more than a year past, and he has never ceased, whenever a good opportunity afforded him the chance, to manifest his hostility. This levying of blackmail or contributions we have always persistently resisted, and never will consent to, but one of our clients, unknown to us, did resort to it to get action on his claim. As soon as this came to our knowledge Judge Hughes reported it to you, after which we could get nothing done with the claim, but the person alluded to afterwards passed on it—allowed and paid it, and endeavored to cheat us out of our fee.

I have thus given you a succinct history of the transactions between the Treasury Department and the firm of Hughes, Denver & Peck, particularly that part of them of which I was specially cognizant, though I have necessarily passed over many of the less important for want of room to give each in detail without making this communication too long.

It is with great regret that I thus recall to your recollection many of the facts above related, but we have yielded until we can yield no further. By all the principles of right and justice we are entitled to the one-fourth of the proceeds of the Dennistoun & Co. cotton, and by our employment as counsel we have a right to the management of that suit. This we will insist on. There never was a necessity for the employment of other counsel *unless it was intended to lose the case*. We were fully competent, in conjunction with the United States district attorney at New York, to manage it ourselves, and whatever has been or may be paid out for counsel over and above our fees is that much unnecessarily paid.

The foregoing is a plain, unvarnished statement of facts, intended for your own individual consideration, (though you are at liberty to place this communication on the files of the department, or otherwise, as you please,) but I have this to say in conclusion, that in this case of Dennistoun & Co. we will insist



on our rights to the one-fourth of the whole of the net proceeds thereof, whether you compromise it or not, and to our fee as counsel.

I have the honor to be, very respectfully, your obedient servant,

J. W. DENVER.

Hon. HUGH McCULLOCH,

*Secretary of the Treasury.*

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TREASURY DEPARTMENT, *October 25, 1867.*

GENTLEMEN: In accordance with a special oral request made by Judge Hughes, on the 23d instant, I now have the honor to reply to your letters of the 3th and 9th of August last, relative to your claim for compensation in what is known as the "Dennistoun cotton case."

The claim is made that your firm are entitled to receive as compensation one-fourth of the proceeds of the cotton secured and held by the government. This claim is based upon certain letters of the department which are recited in your letters of the 25th of March and 9th of April last, making a similar claim for compensation in the "Richmond gold case," which was rejected, and the sum of ten thousand dollars (\$10,000) paid you as counsel fees therein.

Judge Hughes's letter of the 17th of August, 1865, and the department's reply of the 19th of the same month, authorizing him to secure certain securities and gold of the late so-called Confederate States government, of which he had obtained a knowledge confidentially as counsel, evidently, as appears by their terms, have no reference to the present or any similar case.

In Judge Hughes's letter of the 28th of August, however, he proposes that the department's authority be extended to enable him to recover other kinds of property, including cotton not known to the regular agents of the department; and in the reply of the department, dated August 30, he was informed that there was no objection to extending the authority of the letter of August 19 to other property of the confederacy, on the following conditions:

Provided it be property which would not otherwise be discovered or reached by this department or its agents; and provided a report be made by you in relation to each lot of property which you may attempt to secure, as soon as you may discover the same, in order that the conditions on which the authority shall be continued and the arrangement proceed may be adjusted to the satisfaction of the department.

These letters constitute, it is believed, the only contract between your firm and this department, by which a share of the property recovered in any case is to be paid you for your information and services. I have not been able to find any additional letter of the department, or any transaction with your firm which would give your present claim any strength not derivable from the foregoing letters, but rather the contrary.

Upon an examination of the facts in relation to the Dennistoun case, it is my impression that upon the above letters, even if there were not an express agreement to the same effect, that case would be excluded from the terms of the arrangement which those letters make.

It is certain that the Dennistoun cottons were never reported by you to the department to be included within the agreement for a *pro rata* compensation, as provided by the letter of August 19, 1865. Instead of the cottons being property which would not otherwise have been discovered or reached by the department or its agents, it is my impression that they were detained by officers of the department before General J. W. Denver commenced any service in relation to them, and that Supervising Agent J. R. Dillin, Assistant Agent C. T. Wharton, and the military authorities and others in Georgia, were investigating and reporting the history of the same. The claim of Special Agent J. R. Willett, in the affidavit annexed to your letter of the 8th of August last, that he *seized and shipped* the cottons, if intended to convey the impression that his taking was the first and original seizure, is erroneous.



But the nature of the employment of your firm in the Dennistoun case, and the method of fixing the compensation therefor, was not left undefined at the time of your first connection with the same. About the time, or shortly after the letters of August, 1865, were written, it was distinctly understood that there were certain matters in relation to which your firm was to be employed as counsel for the department, and which were not to be included within any agreement for compensating you by allowing a share of property recovered. In pursuance of this express and well-understood agreement, letters of employment as counsel were at different times issued to your firm in several important cases, and on the 30th of October, 1865, you were, by letter, retained as counsel for the department in relation to "cotton claimed by Dennistoun & Co., of New York, as agents of Alexander Collie & Co., of England." In response to your earnest request, there was inserted in this and other similar letters of employment as counsel the following clause:

It appears probable, on account of certain knowledge possessed by you, and of certain facilities you have for obtaining information, that you may be able to obtain testimony of great importance to the cases which would not have been secured without your employment. If such should prove to be the case, these special services are to be taken into consideration in adjusting your compensation for services rendered, it being understood, however, that no expenses are to be incurred for which the department is to be charged without prior authority specially given therefor.

The relation which your firm was to bear to the government in relation to the Dennistoun case having been so clearly defined by the foregoing letter, as well as by the distinct understanding between the department and yourselves, I cannot see how I should be justified in yielding to your present claim of a "one-fourth interest" in the case, and I am compelled to reject the same.

It remains to fix your compensation as retained counsel in the case. Recognizing your valuable services, the department has already paid your firm the following items:

June 4, 1866—Cash paid John P. Murray for expenses of self and assistants.....	\$4, 200
June 4—General Denver, 120 days' travelling and other expenses, at \$12 per day.....	1, 440
June 4—Mr. Peck, 30 days' expenses, at \$12 per day.....	360
April 18—Expenses incurred.....	1, 000
August 10—Fee in the Dennistoun case.....	6, 000

Inasmuch as you desire to retire from all further connection with the case, it seems to me that I should be justified in making to you a further payment in full for your fees for professional services, and, after carefully considering the whole case, I have concluded to fix the same at five thousand dollars, (\$5,000,) which will be paid you whenever you are ready to receive and receipt for the same.

There have been many incidental questions growing out of this case and of your connection with the business of the department. Statements and suggestions have been made in various letters of your firm and its members, particularly in those relative to the Richmond gold case and in the letter of General Denver, dated August 14, 1867, which have been incorrect and uncalled for. I prefer not to reply to anything of this nature except when necessary to protect the interests of the government, and can only say that I have never intended to do injustice to your firm, or to any member of it, but, on the contrary, have endeavored to act in all matters affecting your interests with fairness and liberality.

Very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

MESSRS. HUGHES, DENVER & PECK,  
*Washington, D. C.*

In the matter of Dennistoun and others, British merchants in New York, *vs.* Draper, replevin for cotton alleged to be the property of the plaintiffs, and to have been unlawfully taken or held by the Treasury Department of the United States, my opinion is requested by the department as to the expediency or in-expediency of settling the same by arrangement between the claimants and the government.

In order fitly to answer this question it becomes necessary to consider the origin and history of the controversy, its technical status, its ultimate legal merits, and some of its collateral incidents

Ample information as to all these points is derivable from the voluminous papers in the case on the files of the department, including the official reports of its agents at the places of seizure in Georgia, and of detention in New York, proceedings in the circuit court of the United States for the southern district of New York, representations made by or in behalf of the claimants, and arguments or opinions of eminent counsel.

Among the latter are opinions asserting the right of and title of the claimants by Mr. Charles O'Connor, Mr. William M. Evarts, Mr. Edward Pierrepont, Mr. James T. Brady, and Mr. Thomas Ewing, and opinions in favor of the government by Messrs. Hughes, Denver & Peck, the late Mr. Charles Eames, and Mr. Samuel G. Courtney, district attorney, and the official opinion of Mr. Justice Nelson on a preliminary motion in the case heard by him, has the necessary general weight of his high character as well as the special authority of the competent judge.

It will be understood that all these documents, whether more particularly referred to herein or not, have been carefully examined by me before undertaking to come to a conclusion on the general question submitted.

The facts are relatively simple, in so far as material to the present investigation.

Messrs. Collie & Co., of London, were largely engaged during the rebellion in the purchase of cotton in the southern States and its exportation to England, and in furnishing supplies to the so-called confederate government.

All their commercial operations involved running the blockade as against the United States, and much of their cotton was obtained from, or in association with the pretended confederate government, and was legally tainted in that respect.

The cotton in controversy was seized in the months of September and October, 1865, as the property of Collie & Co., chiefly at different points of storage or collection in the State of Georgia, at Savannah, Augusta, Macon and Columbus.

Anterior to this time, under date of the 29th of April, 1865, in consequence of the actual dissolution of the pretended confederate government, the capitulation of all its forces east of the river Mississippi, and the cessation of hostilities on the part of the rebel States, an order had been issued by the President discontinuing restrictions on commerce in those States, except so far as lawful regulations might continue to limit the same, and except as to certain enumerated articles of contraband of war, not embracing cotton.

Circular instructions of the Secretary of the Treasury of May 9, 1865, directed all officers and agents of the department, in order to give effect to this proclamation, to cause as little annoyance as possible to private parties, and to remove all restrictions on commerce in so far as "the most liberal construction of the law will permit."

Afterwards, on the 22d of May, 1865, by proclamation of the President of that date, the ports of the United States (except in Texas) were opened to commerce, and all restrictions withdrawn therefrom in the territory thereof east of the Mississippi, "save those relating to contraband of war, to the reservation of the rights of the United States to property purchased in the territory of an enemy, and to the twenty-five per cent. on the purchase of cotton."

At this period Mr. Edwards Pierrepont, as attorney of the present claimant, Dennistoun & Co., made special application to the department for the purpose of ascertaining whether cotton could be freely purchased in any of the States east of the Mississippi, and shipped to New York, and on the 3d of June, 1865, received answer in the affirmative by letter from Assistant Secretary Harrington.

Subsequently thereto, by the President's proclamation of June 13, 1865, all restrictions on trade east of the Mississippi were removed, except as to "arms, ammunition, all articles from which ammunition is made, and gray uniforms and cloth."

By proclamation of the 23d of June, 1865, the ports of Texas were opened to commerce.

And finally, by proclamation of August 20, 1865, all special restrictions on trade whatsoever were removed as to all the rebel States.

Such, at the time when the cotton here in question was seized, was the legal status of the commerce in cotton throughout all the southern States.

Notwithstanding this, however, and although legitimate trade in the southern States was open at the time, yet the agents of the departments had apparently ample cause to pursue this cotton, in the information received tending to show that it was the property of Collie & Co., or of the pretended confederate government, and otherwise subject to seizure under the captured and abandoned property acts, and that the claim of Dennistoun & Co. was colorable only and fraudulent as against the United States.

They had the more reason for this, seeing that the cotton had undoubtedly been therefore the apparent property of Collie & Co., and that the same persons who now professed to be the agents of Dennistoun & Co., had been the local agents of Collie & Co.

The agents of the treasury accordingly proceeded to seize all such cotton as had once belonged to Collie & Co.

Upon the seizure taking place, the cotton was immediately claimed by Dennistoun & Co. as theirs by lawful purchase and for lawful purposes of commerce; they had already exported, or laden for exportation, considerable quantities of cotton, which they professed to be parts of the same or similar purchases; they contracted insurance to a large amount on some of the cotton seized; and on the arrival of the cotton at New York, actions of replevin in the supreme court of that State were instituted for its recovery by Dennistoun & Co. against Mr. Simeon Draper, in whose hands as agent of the department it was; they denying all right of seizure by the government in virtue of the captured and abandoned property act, and denying that the cotton was abandoned property or subject to seizure at that time for any cause, either as abandoned or confiscable property, or as the property of Collie & Co., or that of the so-called confederate government; in fine, alleging complete and lawful property in themselves.

Meanwhile, the government had ineffectually endeavored to detain some cotton shipped by Dennistoun & Co. at Apalachicola.

In regard to two other lots, on which Dennistoun & Co. had made insurance, and which were arrested *in transitu* on the river Ocmulgee, the department notified the underwriters not to pay the loss to Dennistoun & Co.

And at New York, although Dennistoun & Co. anticipated the action of the government by hastily shipping some of the cotton there, yet the greater part of it was retaken into the possession of Draper by bonding the same in conformity to the laws of the State of New York; the government being constrained in order to cover the replevin bonds to make a special deposit of \$500,000 cash in the hands of the Farmers' Loan and Trust Company of New York.

These introductory measures for precaution having been taken, the Treasury Department then proceeded to prepare for its defence, by causing the replevin suits to be transferred to the circuit court of the United States, by means of an order of Judge Betts, and afterwards in a more formal manner by

*certiorari* under presumed authority of provisions of the act of March 3, 1833, commonly known as the force act, and of the act of March 3, 1863, known as the habeas corpus act.

In the circuit court of the United States two motions were made, one in behalf of the government, to quash the writs of replevin; and another in behalf of Dennistoun & Co., to have the transfer of the causes to the circuit court declared inoperative and all the cases adjudged to belong to the jurisdiction of the supreme court of New York.

This latter motion only was heard; and the circuit court, Mr. Justice Nelson presiding, while overruling the motion for the present, did not absolutely determine the question involved, but reserved that for final consideration in the hearing of the causes on their merits.

In the mean time the cotton was sold by Draper under instructions of the department, and the proceeds passed to the credit of the captured and abandoned property fund.

The district attorney of the southern district of New York is now engaged in preparing to have the causes called up at the present term.

If the controversy proceeds, it will be competent for the United States to renew the question of jurisdiction, in *limine*; but the court would probably adhere to its already expressed purpose of hearing the merits, before determining the question of jurisdiction.

Then, after the claimants, the plaintiffs in replevin, shall have filed their declaration, and the United States shall have pleaded thereto, the serious contest of law and fact will commence.

It will be competent for the United States to deny the *bona fide* of the pretended title of Dennistoun & Co., to deny that they could derive any lawful title from Collie & Co., to allege pretended title or commixture of title in the rebel public agents, and therefore paramount legitimate title in the United States; to discuss the legal character of the cotton, as whether confiscable or not; in fine, to adduce as against the plaintiffs any of the exceptions of law or fact, which in this class of cases may have occupied the thoughts of the department.

At this stage of the causes—that is, in the interval between the hearing of the motion to remand the causes and the commencement of the preparation for trial—question of the expediency or in expediency of settlement has arisen, and has at length reached a point at which it cannot any longer be disregarded by the department.

It appears to me, after long and solicitous reflection, that the inducements to this are of unmistakable gravity and urgency. They may be summarily stated as follows:

1st. When this cotton arrived at New York, it was found that no inconsiderable percentage of the original seizure had *disappeared*, while, as alleged, it was under the control of the agents of the government in Georgia. If the cotton should ultimately prove to have been the lawful property of Dennistoun & Co., the loss thus accruing would devolve inconvenient responsibility on the government, for imputed misconduct, or neglect of its agents in Georgia.

2d. The expenses charged to this government, by the seizing and forwarding agents of the government, are of enormous amount, relatively to the value of the cotton. If it was unlawfully seized and detained, it would be difficult, if not impossible, to maintain these expenses as against a claim of Dennistoun & Co., for damages on account of the taking and detention.

3d. The cotton, when sold at New York, owing to fall of price, and other causes, did not realize so much in money as it would have done if sold at the time of seizure, or even that of the replevin; and damages for unlawful taking are measured by the price of the property at that time.

4th. By operation of all the above causes, and, also, of the expenses at New York, the net proceeds of the cotton in the possession, real or constructive, of

the department, appear to be about only \$100,000. more or less ; and this amount is subject to large deductions still, for compensation of informers, expenses of litigation, and incidental charges ; so that the actual stake of the government in the controversy cannot much, if any, exceed the sum of \$50,000.

Nay, the loss of the suits by the government would involve not only the damages payable to the claimants, but all the charges on the cotton which the treasury has paid out, amounting to not less than \$200,000. That is to say, if the suit goes on, it will be for the chances of retaining say \$50,000, with the chances of losing say \$700,000, including say \$500,000, the original value of the cotton.

In addition to this, if there be no serious risk of losing the special deposit of \$500,000, still it is inconvenient to have so large a sum continue, during the pendency of, perhaps, a long litigation, out of the treasury, and in the custody of a private corporation, with certain loss of interest to the government.

5th. It is further to be observed, as a substantive consideration in favor of the proposed settlement, that the loss of interest on the deposit would equal, if not exceed, the sum proposed to be relinquished by the government ; so that one of these sums would balance the other, and the arrangement would result in no actual loss to the government.

6th. If, on the other hand, the title of the United States to the cotton were a sure one, these most unequal changes of relative profit and loss might well be affronted by the department. But it cannot be affirmed that the title of the United States is a sure one. Independently of the uncertainty of all trials, which consideration works both ways, it is true, but most strongly against the largest contingent loser, and as to which, also, it is pertinent to observe that these claimants risk by the suit, of certain loss, nothing but the expenses of litigation, while the government risks at least \$750,000—independently of this, it cannot be denied that the *ultimate* result of the controversy is uncertain. I speak of the *ultimate* result, because it may well be, and there is good reason to believe that the circuit court of New York will decide as did the circuit court of Missouri in the case of *Elgee s Administrator vs. Lovel*, that the Court of Claims has exclusive jurisdiction of this class of cases, by force of the statutes of captured and abandoned property.

As to the considerations which lead me to the conclusion of uncertainty of ultimate result in this case, it seems to me undesirable to speak in this opinion, because they might be prejudicial here, if no settlement should be effected ; and if it should be, they might prejudice other interests of the government implicated in domestic cases before the Treasury Department, the courts of law of the United States, or the Court of Claims, and foreign claims before the State Department. In view of all this, and of my reluctance to put on record anything liable to turn up against the interests of the government in this class of cases, and more especially while the trespass cases are pending in the circuit court of New York, it would be agreeable to me to express a professional conclusion here on the subject, rather than the reasons for it. Those reasons can be stated hereafter, if it should prove to be desirable.

This conclusion is of mixed fact and law, and it stands in my mind in this shape : The uncertainties, both of fact and law, in this case are to such degree, at least, that, in my judgment, it would be unwise for a private person in the conduct of his own personal affairs, and more so for the Treasury Department, in its administration of the financial affairs of the government, to take the risks of the great loss which may be incurred by continuing the litigation, against the small relative sum of net proceeds at stake, if the government can effect a settlement by which it shall be exonerated of all its liabilities in the premises, through the sacrifice of one-half of the estimated net proceeds, to satisfy the whole claim of Dennistoun & Co., while compromising no principle affecting this or any other cases which it may be for the interest of the government to maintain.



I am not unaware that, since the question of settlement of these causes came up, there has been a reference of it to the Attorney General. If he had found the question to be within his competency, and had authoritatively pronounced thereon, a positive opinion of his would have precluded any contrary expression of opinion on my part, of course, and would have been sufficient for you. But he conceives that it is the duty of the Attorney General not to weigh contradictory evidence, or to find conclusions of fact, but only to apply the law to a case stated, or to facts agreed. It is, indeed, the absence of any such duty (or power) vested in the Attorney General, which necessitates, in the business of the department, the employment of special counsel, who may investigate and pass on questions of evidence, as well as law, and more especially in matters outside of the Supreme Court, in which court alone the Attorney General appears.

I do not hesitate, therefore, to say that, in my opinion, if the department can effect an arrangement with Dennistoun & Co. on the conditions above indicated, with division of the small residuum of net proceeds of the cotton, it is its duty to do so, as in the spirit of just and faithful administration of the best interests of the government.

C. CUSHING.

WASHINGTON, *October 29, 1867.*

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OFFICE DISTRICT ATTORNEY OF THE UNITED STATES  
FOR THE SOUTHERN DISTRICT OF NEW YORK,  
*New York, November 4, 1867.*

SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, in which you say:

As you are familiar with all the points in the case, I will thank you to favor the department, as early as practicable, with your opinion as to the expediency of settling the pending litigation with Dennistoun & Co., relative to certain cotton claimed by them, and taken by agents of this department, as captured and abandoned property, on the basis of a payment to them of fifty-three thousand dollars, which sum is understood to be about one-half the net proceeds realized by the government from the sale of such cotton.

In answer to your request for such opinion I would state that after a careful and thorough examination of the legal questions and proofs, as far as they have been presented to me, on the side of the government, and without knowing anything of the proofs on the part of Dennistoun & Co., I am of the opinion that Dennistoun & Co. cannot, as plaintiffs, maintain the actions brought by them, although I am aware that distinguished and able counsel, like Charles O'Connor, William M. Evarts, and Edwards Pierrepont, think and have advised otherwise.

In view, however, of the facts that these litigations must necessarily be attended with great expense to the government, and, if continued, must last for two or three years, before finally determined by the Supreme Court of the United States; and that a large amount of money belonging to the government (which now, if under its control and in its possession, would be of great benefit to it) is tied up, awaiting the result of these suits; and in view of what may be considered the doubtful result of suits, involving so many important and difficult questions of law and of fact as exist in these cases, I am, notwithstanding the opinion above expressed, inclined to and do recommend the settling of the litigations of Dennistoun & Co. in the manner referred to in your letter, as being, perhaps, best for the interests of the government.

In making this recommendation, however, I would suggest to the department the importance of requiring Dennistoun & Co. to execute due and proper releases and discharges to the government and its officers, of and from all claims and demands against it or them, arising out of the seizure and capture of the



cottons in question, and out of the suits arising therefrom ; and also, that they furnish all documents and papers that may be required of them, to place the government in possession of the moneys furnished by the government to secure the bondsmen on the part of the government when it took possession of the cottons held by the sheriff of New York in the suits in question.

I would also state to the department that it was understood that my fee in these cases should be five thousand dollars, of which I have received two thousand on account, leaving a balance due to me of three thousand dollars ; and that some provision be made for the payment of this sum to me. If not required to be paid by Dennistoun & Co, I am willing to leave this part of the matter to the liberality and justice of the honorable the Secretary of the Treasury.

I have the honor to be, sir, your obedient servant,

SAM'L G. COURTNEY,  
*United States Attorney.*

Hon. HUGH McCULLOCH,  
*Secretary of the Treasury.*

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TREASURY DEPARTMENT,  
November 4, 1867.

SIR : There is herewith transmitted to you, through the hands of Hon. S. G. Courtney, United States district attorney, a draft for fifty-three thousand dollars, (\$53,000,) in compromise and full settlement of the controversies now existing between the government and your clients in relation to certain cottons seized by the government, concerning which litigation has been pending in the United States district court for the southern district of New York.

The district attorney will deliver the same upon the withdrawal by your clients of all pending suits, and upon the due execution of a release of all claim against the government, its officers or agents, civil or military, on account of the taking and detention of said cotton.

It has been suggested that the expenses paid by the United States in connection with the cottons which have been the subject of controversy were extraordinary and unjustifiable, and that Messrs. Savery & Co., forwarding agents, are justly and legally bound to refund some portion of the charges which have been paid them. In case, upon a full investigation of the charges paid, it shall appear to you and to the department that there is reasonable ground for a recovery of any sums from Savery & Co. on this account, the department will institute proceedings against them, and will allow to your clients one-half of the net proceeds which may be recovered.

It is also understood that the department will not interfere to prevent your clients from proceeding against any parties who may have stolen or improperly and illegally, without authority from the United States, converted to their own use any portion of the cottons the title to which has been in controversy in the litigation ; that the department will also withdraw any claim that has been set up on behalf of the government to the insurance due upon certain cottons claimed by your clients which have been destroyed ; and will also waive any obligations incurred by your clients by their letter to Simeon Draper, dated December 9, 1865, relative to 412 bales of cotton shipped to Europe by the steamer Pennsylvania.

Very respectfully,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. WILLIAM M. EVARTS,  
*Counsel for Messrs. Dennistoun & Co., New York.*

NEW YORK CITY, *November 5, 1867.*

For value received, the undersigned hereby release and discharge the United States government, its officers and agents, civil and military, from all claims and demands of every kind and nature, arising from or in any way connected with the seizure, detention or conversion of any and all cottons involved in the controversies and litigations now pending between the undersigned and the United States, its said officers or agents, or otherwise claimed by the undersigned as their property; particularly including within the operation of this release about 3,000 bales of cotton embraced in the six suits now pending in the circuit court of the United States for the southern district of New York, in favor of the undersigned, against Simeon Draper; about 412 bales shipped by the undersigned to Europe in the steamer *Pennsylvania*; about 316 bales shipped to Europe on the *North Star*, from Apalachicola, in January, 1866; about 728 bales shipped by the *Lydia Schofield* from Apalachicola in January, 1866; about 348 bales wrecked upon box-boat No. 10 on the Ocmulgee river in November, 1865; and about 142 bales shipped on box-boat No. 9, on the Ocmulgee river; but not intending by the above particular recital and description of cottons to exclude any other cottons covered by the provisions of this lease, it being hereby intended to discharge the United States from all claim, present or future, on the part of the undersigned, on account of any cotton taken or held, or alleged to have been taken or held, by any officers or agents of the United States aforesaid.

It is, however, understood that this release shall not prevent the undersigned from proceeding against any parties who may have stolen, or improperly and illegally, without authority from the United States, converted to their own use any cottons of the undersigned.

Witness our hands and seals, the day and year first above written.

[SEAL]

DENNISTOUN & CO.  
R. C. LANCEY.

*United States Circuit Court, southern district of New York.*

ALEXANDER DENNISTOUN and others,

*vs.*

JOHN H. DRAPER and HENRY DRAPER, executors of the  
last will and testament of SIMEON DRAPER, deceased. } Nos. 1, 2, 3, 4, 5, 6.

It is stipulated that the foregoing six actions be discontinued without costs, and all bonds and undertakings given or filed by plaintiffs or defendants be cancelled, the plaintiffs to retain the property replevied in action number one, and the defendants to retain the proceeds of property in Union Trust Company, in numbers two and three.

FOSTER & THOMPSON,  
*Plaintiff's Attorneys.*  
SAMUEL G. COURTNEY,  
*Attorney for Defendants.*

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At a stated term of the circuit court of the United States of America, for the southern district of New York, in the second circuit, held at the United States court-rooms, in the city of New York, on Monday, the 11th day of November, in the year of our Lord one thousand eight hundred and sixty-seven.—Present, the honorable Samuel Nelson, circuit judge.

ALEXANDER DENNISTOUN and others,  
*vs.*  
 JOHN H. DRAPER and HENRY DRAPER, executors, &c., of  
 SIMEON DRAPER, deceased. } No. 2.

The same  
*vs.*  
 The same. } No. 3.

On reading and filing the affidavit (and annexed papers) of Samuel G. Courtney, attorney for the defendants, and the consent of Foster & Thomson, attorneys for the plaintiffs in the above entitled actions, and on motion of Samuel G. Courtney, aforesaid, with the consent aforesaid of said Foster and Thomson indorsed hereon, it is ordered that the property described in the receipt of the Union Trust Company mentioned in said affidavit, and stipulated between the said parties to be retained by the defendants herein, and which is shown by said affidavit to be the property of the United States, be transferred and delivered by the said Union Trust Company to H. H. Van Dyck, an assistant treasurer of the United States in the city of New York, to the credit of the United States, as the proceeds of property held for them by Simeon Draper, deceased, as cotton agent of the United States.

S. NELSON.

A copy:

KENNETH G. WHITE, *Clerk.*

LETTER  
OF  
THE SECRETARY OF WAR,  
COMMUNICATING,

*In compliance with a resolution of the Senate of February 17, 1868, information in relation to the number of military districts or headquarters in the District of Columbia.*

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MARCH 3, 1868.—Read, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

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WAR DEPARTMENT,  
*Washington City, February 29, 1868.*

SIR: In compliance with the Senate's resolution of February 17, 1868, directing "the Secretary of War to communicate to the Senate the number of military districts or headquarters established in the District of Columbia; the number, names, rank, and duty of each officer connected therewith, and the aggregate expense of the same; and whether officers of the army are detailed for duties other than military, and for what and by whom detailed; the name and rank of such officers, and by what law or army regulations the same is authorized," I have the honor to send herewith a report of February 26th, by the Adjutant General, containing the information desired.

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

Hon. B. F. WADE, *President of the Senate.*

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ADJUTANT GENERAL'S OFFICE,  
*Washington, D. C., February 26, 1868.*

SIR: In compliance with your instructions of the 18th instant, I have the honor to make the following report upon the Senate resolution, dated February 17, 1868, directing the Secretary of War "to communicate to the Senate the number of military districts or headquarters established in the District of Columbia, the number, names, rank, and duty of each officer connected therewith, and the aggregate expenses of the same, and whether officers of the army are detailed for duties other than military, and for what, and by whom detailed, the name and rank of such officers, and by what law or army regulation the same is authorized."

The military districts and headquarters established in the District of Columbia are as follows:

1. Headquarters armies of the United States.
2. Headquarters military division of the Atlantic.
3. Headquarters department of Washington.
4. Headquarters garrison of Washington.
5. Headquarters 5th regiment United States cavalry.
6. Headquarters 12th regiment United States infantry.
7. Headquarters 44th regiment United States infantry.

The order creating the military division of the Atlantic was issued by the President February 12, 1868. By a subsequent order of the President, dated February 19, 1868, Lieutenant General W. T. Sherman was relieved from the assignment to command this division, and no other officer has yet been assigned in his place. The headquarters has accordingly not been established. The estimated expenses would be about the same as that for the headquarters department of Washington.

The department of Washington comprises the States of Maryland, Delaware, and the District of Columbia.

*Officers attached to the several headquarters.*

**HEADQUARTERS ARMIES UNITED STATES.**

Name.	Rank.	Duty.
1. Ulysses S. Grant.....	General.....	Commanding.
2. John A. Rawlins.....	Brigadier Gen. and Brevet Maj. Gen..	Chief of staff.
3. George K. Leet.....	Major and Brevet Lieut. Colonel .....	Ass't Adjutant Gen.
4. Cyrus B. Comstock ..	Major Engs. and Brevet Brig. Gen. ...	Aide-de-camp.
5. Orville E. Babcock ..	Major Engs. and Brevet Brig. Gen. ...	Do.
6. Horace Porter .....	Major Ord. and Brevet Brig. Gen. ....	Do.
7. Frederick T. Dent....	Major 14th Inf. and Brevet Brig. Gen.	Do.
8. Ely S. Parker .....	First Lieut. 2d Cav. and Bvt. Brig. Gen.	Do.
9. Adam Badeau .....	First Lieut. 4th Inf. and Brevet Col. ..	Do.
10. Amos Webster.....	Second Lieut. 5th Cav. and Bvt. Major..	Acting Ass't Adjt. Gen.

**HEADQUARTERS DEPARTMENT OF WASHINGTON.**

Name.	Rank.	Duty.
1. Wm. H. Emory.....	Colonel 5th Cav. and Brevet Maj. Gen.	Com'dg dep't and reg't.
2. Jos. H. Taylor .....	Major and Brevet Colonel .....	Ass't Adjutant Gen.
3. Jos. Roberts.....	Lieut. Col. 4th Art. and Bvt. Brig. Gen.	A. A. I. G. and discharge officer.
4. Eugene A. Carr.....	Major 5th Cav. and Bvt. Major Gen. ..	Acting judge advocate
5. John C. McFerran...	Lieut. Col. and Brevet Brig. General..	Chief Q. M. and depot and post Q. M.
6. George Bell .....	Major and Brevet Colonel.....	Chief Com. of Sub. and depot C. S.
7. May H. Stacey.....	Captain 12th Inf. and Brevet Major. ...	Aide-de-camp.
8. C. B. Atchison .....	Captain 3d Inf. and Brevet Lieut. Col.	Do.
9. R. H. Montgomery...	First Lieut. 5th Cav. and Adjt. and Bvt. Captain.	Do.
10. Lewis A. Edwards ...	Major and Surgeon and Brevet Col. ...	Med. Dir. and Surgeon-in-chief B. H. F. and A. L.
11. Wm. A. Bradley.....	Captain and Asst. Surg. and Bvt. Major	On duty in Medical Director's office.

**HEADQUARTERS GARRISON OF WASHINGTON.**

Name.	Rank.	Duty.
1. George W. Wallace ...	Lieutenant Colonel 12th Infantry.....	Com'dg garrison and regiment.
2. John L. Viven .....	First Lieutenant 12th Infantry .....	Adjutant of garrison.
3. Alfred B. Taylor .....	First Lieut. 5th Cav. and Bvt. Captain	Garrison and regimental quartermaster.

## HEADQUARTERS FIFTH REGIMENT UNITED STATES CAVALRY.

Name.	Rank.	Duty.
1. Wm. H. Emory .....	Colonel and Brevet Major General ....	Commanding.
2. A. B. Taylor .....	First Lieut. Reg. Q. M. and Bvt. Capt.	Regimental Q. M.
3. R. N. Montgomery ....	First Lieut. and Brevet Captain .....	Regimental adjutant.

## HEADQUARTERS TWELFTH REGIMENT UNITED STATES INFANTRY.

Name.	Rank.	Duty.
1. George W. Wallace ...	Lieutenant Colonel .....	Commanding.
2. John L. Viven .....	First Lieutenant .....	Adjutant.
3. Alfred B. Taylor .....	First Lieutenant 5th Cavalry .....	Quartermaster.

## HEADQUARTERS FORTY-FOURTH REGIMENT UNITED STATES INFANTRY.

Name.	Rank.	Duty.
1. John H. Donovan .....	Captain and Brevet Major .....	Commanding.
2. Joseph H. Sylvester ...	First Lieutenant .....	Adjutant.
3. Frank R. Rice .....	First Lieutenant .....	Quartermaster.

## AGGREGATE EXPENSE.

Pay and allowances of officers per annum .....	\$117,716 43
Hire of buildings for offices per annum .....	8,522 52
Stationery and other expenses for offices per annum .....	3,336 98
Total .....	<u>129,575 93</u>

*Officers of the army detailed for duties other than military.*

1. Brigadier and Brevet Major General R. Delafield, retired, appointed member of Light-house Board by the President, under sections 8 and 9 of act of August 31, 1852, and section 25 of act of August 31, 1861, and Regent of Smithsonian Institute under joint resolution of February 14, 1865.

2. Brevet Brigadier General N. Michler, major of engineers, assistant to Chief Engineer in duties of Commissioner of Public Buildings, under section two, act of March 2, 1867.

3 Brevet Brigadier General O. M. Poe, major of engineers, appointed secretary to Light-house Board, under act of August 31, 1852.

4. Major William G. Moore, paymaster United States army.

5. Major R. Morrow, paymaster United States army.

6. Brevet Lieutenant Colonel Wright Rives, 6th regiment United States infantry.

The three last named officers are on duty in the office of the President, by special orders from the President. No particular act of Congress or army regulation touching the case.

Aggregate pay and allowances for the above officers per annum, \$24,299 83.

The foregoing embraces all the information called for in the resolution. Annexed is a table of the expenses in detail.

I am, very respectfully, your obedient servant,

E. D. TOWNSEND,

*Assistant Adjutant General.*

Hon. EDWIN M. STANTON, *Secretary of War.*



*Statement of expenses in detail.*

	Per month.	Per year.	Total amt paid.
<b>HEADQUARTERS ARMIES OF THE UNITED STATES.</b>			
Rent of building for offices.....	\$350 00	\$4,200 00	
Hire of two laborers as policemen.....	50 00	600 00	
Fuel for offices.....	49 79	597 48	
Forage and straw for officers' horses.....	378 09	4,537 08	
Stationery for offices.....			
Commutation of quarters and fuel for officers.....	1,215 31	14,583 72	\$24,518 28
<b>HEADQUARTERS DEPARTMENT OF WASHINGTON.</b>			
Rent of building for office.....	250 00	3,000 00	
Hire of one laborer as policeman.....	25 00	300 00	
Fuel for offices.....	22 87½	274 50	
Forage and straw for officers' horses.....	188 07½	2,256 90	
Stationery for offices.....	58 3¾	700 00	
Commutation of quarters and fuel for officers.....	719 18	8,630 16	15,161 56
<b>HEADQUARTERS GARRISON OF WASHINGTON.</b>			
Fuel for offices.....	9 3¾	112 00	
Forage and straw for officers' horses.....	28 47 11-12	341 75	
Stationery for offices.....	22 91½	275 00	
Commutation of quarters and fuel for officers.....	95 54	1,146 48	1,875 23
<b>HEADQUARTERS 5TH REGIMENT UNITED STATES CAVALRY.</b>			
Rent of grounds on which public buildings are erected for four companies of 5th cavalry.	85 21	1,022 52	
Fuel for offices.....	4 66½	56 00	
Forage and straw for officers' horses.....	47 66	571 92	
Stationery for offices.....	3 3¾	40 00	1,690 44
<b>HEADQUARTERS 44TH REGIMENT UNITED STATES INFANTRY.</b>			
Fuel for offices.....	4 66½	56 00	
Forage and straw for officers' horses.....	31 78	381 36	
Stationery for offices.....	10 83½	130 00	567 36
<b>HEADQUARTERS 12TH REGIMENT UNITED STATES INFANTRY.</b>			
Rent of grounds occupied by headquarters and six companies 12th United States Infantry.	25 00	300 00	
Fuel for offices.....	4 66½	56 00	
Forage and straw for officers' horses.....	47 66½	571 98	
Stationery for offices.....	11 66½	140 00	1,067 98
<b>OFFICERS ON OTHER THAN MILITARY DUTIES.</b>			
Brevet Major General Richard Delafield, brigadier general U. S. A., member Light-house Board and Regent Smithsonian Institute:			
Forage and straw for his horses.....	31 90	382 80	
Commutation of his quarters and fuel.....	113 82 1-6	1,365 86	1,748 66
Brevet Brigadier General Nathaniel Michler, major of engineers, Superintendent of Public Buildings, Grounds, &c.:			
Forage and straw for his horses.....	31 75	381 00	
Commutation of his quarters and fuel.....	92 88½	1,114 60	1,495 60
Major William G. Moore, paymaster, U. S. A., on duty at Executive Mansion:			
Forage and straw for his horses.....	12 32	147 84	
Commutation of his quarters and fuel.....	92 88½	1,114 60	1,262 44
Major Robert Morrow, paymaster, U. S. A., on duty at Executive Mansion:			
Forage and straw for his horses.....	21 07	252 84	
Commutation of his quarters and fuel.....	98 88½	1,114 60	1,367 44
Brevet Lieut. Colonel Wright Rives, captain 6th Infantry, on duty at Executive Mansion:			
Forage and straw for his horses.....	31 70	380 40	
Commutation of his quarters and fuel.....	71 06 5-12	852 77	1,233 17
Grand total.....			51,928 16

The pay of the officers included in this report is per annum..... \$101,887 60

LETTER  
OF  
THE SECRETARY OF THE TREASURY,  
COMMUNICATING

*A letter from the Director of the Bureau of Statistics in relation to the joint resolution abolishing said bureau.*

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MARCH 4, 1868.—Read, ordered to lie on the table and be printed.

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TREASURY DEPARTMENT, *March 4, 1868.*

SIR: Herewith I take the liberty of handing you a letter addressed to me by Alexander Delmar, Director of the Bureau of Statistics, presenting his views upon the resolution reported to the Senate by the Joint Committee on Retrenchment abolishing the bureau, which I will thank you to lay before the Senate.

Very truly yours,

H. McCULLOCH,  
*Secretary of the Treasury.*

Hon. B. F. WADK,  
*President of the U. S. Senate.*

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BUREAU OF STATISTICS, TREASURY DEPARTMENT, U. S. A.,  
*Washington, D. C., March 3, 1868.*

SIR: I observe that a resolution to abolish this bureau has been reported in the Senate from the Joint Committee on Retrenchment. For this no reason has been officially assigned, nor has the Director been heard in defence of any arguments that may have been urged against the continuance of the bureau. Some of the newspapers have, indeed, intimated that the bureau has been conducted without due regard to economy, and the exigency appears to call for a refutation of this charge, else the bureau and its Director may be condemned unheard and without cause.

In truth, the expenditures of the bureau, all of them made in accordance with law, have been exceedingly economical, and have been made with your sanction and under your approval. A single economy effected by the bureau will almost cover its entire expenditure. Previous to its establishment it was the practice of every custom-house to print its own blanks. As there are 125 custom-houses, and over fifty forms of blanks in use, the aggregate charges for printing were quite heavy. The custom-houses are now all supplied with these blanks by the bureau, and the economy thus effected has been enough to render the establishment of the bureau rather a saving than a source of expense to the government; while, by reason of the scrutiny to which its supervision subjects the customs accounts, the treasury has been more than once, as I am informed, saved from loss, and the efficiency of the machinery for the collection of the customs revenue much strengthened. As to the number of clerks it employs,

the Director, as you are aware, has no control. He can only recommend, and the Secretary of the Treasury acts upon such recommendations as he deems fit. But without detriment to the public service the Director cannot recommend much further reduction of the clerical force employed in the bureau until the 30th June next. The bureau having been organized ten weeks after the commencement of the fiscal year 1867, it became necessary, in order to comply with the law, to keep two sets of custom-house records—the quarterly and the monthly. As already recommended to and approved by you, the quarterly accounts will be dispensed with after the 30th June next. This will do away with ten clerks.

The warehouse accounts alone fully occupy ten clerks. The home consumption and duties accounts employ five clerks. The listing and numbering of the 18,000 merchant vessels of the United States employ two clerks, the immigration statistics employ one clerk, and the *in transitu* trade statistics two clerks. The returns from manufacturers employ ten clerks. All these, and many other important accounts, are newly established. They were not compiled before, and they cannot well be dispensed with now. The law of July 28, 1866, and the exigencies of the public service, both demand them; and whatever change is made, it will be found that no further economy can be effected in the cost of the work. Compared with the cost of similar organizations in other countries—Great Britain, France, Prussia, Belgium, Sweden, Holland, Spain, &c.—it is a mere pittance. As to comparing this bureau with what it was as a division in the Register's office, it is not to be thought of. The Register merely compiled the accounts of imports, exports, indirect trade, and tonnage; and of late years they were compiled so badly as to be almost worthless for purposes of reference. The bureau compiles double sets of these accounts, (the monthly and the quarterly,) and, moreover, compiles monthly the warehouse accounts, (very complicated and difficult to supervise,) the home consumption and duties account; the annual list of vessels, with name, rig, number, and home port of every vessel, and the immigration accounts, besides miscellaneous statistics, covering a vast range of subjects, all of which are compiled with care and correctness. The Register used to publish an annual volume containing the import, export, indirect trade, and tonnage statistics. The bureau not only continues to publish the same volume, "Commerce and Navigation," but, in addition thereto, elaborate monthly reports, embracing similar statistics, and a wide range of other official accounts. For evidence of its efficiency the bureau is satisfied to point to these reports, and if its organization is altered by legislation, it will have cause to feel that it has been deprived of just credit for the continued and strenuous labors they evince. Moreover, the most of the work performed by the bureau cannot be known outside. This consists in the examination and correction of the custom-house accounts, which are filled with arithmetical inaccuracies and errors in practice of every conceivable kind. Import entries are confused with warehouse entries; exports with coastwise shipments; in transitu entries with warehouse and transportation entries; withdrawals for consumption with entries into warehouse, &c., &c. These are technical difficulties only to be overcome by persistent and systematic effort. This system of accounts and revision is now in successful operation, and the returns of the collectors are becoming more and more correct. As fast as they become correct, just so fast can the number of clerks now employed in correcting and revising them be reduced. To dismiss them at this juncture, or to change the organization of the bureau, will be to throw away the fruits of eighteen months' labor.

Besides the Bureau of Statistics, our government supports a number of other organizations solely employed in collecting and publishing statistical information. *e. g.*, statistics of mines, statistics of commercial relations, agricultural statistics, immigration statistics, medical statistics, and educational statistics. In addition to these, there are several others. Those mentioned employ some thirty persons

and subject the government to an annual expenditure of about a quarter of a million dollars.

Now, while admitting the value of the results thus produced, I am naturally tempted to ask why the Bureau of Statistics of this department which employs more persons and compiles and publishes more statistical information than all of the other organizations mentioned do together, and yet which costs but a fraction of the expense, should fall under the censure of the Joint Committee on Retrenchment to the extent of being threatened with disorganization or abolishment. If retrenchment be the object, it can be demonstrated that to abolish the Bureau of Statistics will increase and not diminish the expenditures of the department. The bureau has been so active since its organization, that for the extent and importance of its labors reference must be made to the annual report published in the finance volume of 1867 and to the current Monthly Report, where they are briefly summarized. If it had done nothing at all but introduce system and correctness where before all was confusion and error, its labors would not have been without value.

The welfare of the public service, which I have deeply at heart, the credit due to the diligence of the clerks under my charge, who have faithfully co-operated with me thus far, and a professional pride that views with apprehension the possible defeat of the object to which its labors have been earnestly and exclusively devoted, and which is just now on the eve of accomplishment, alike impel me to ask your active interference with the contemplated change, so far as may lie in your power.

It cannot be possible that gentlemen made aware of these facts will favor the destruction of an organization at once so recently created, so useful, and so economical; and I therefore respectfully request, Mr. Secretary, that you may communicate this letter to the Senate and House of Representatives, in order that they may be informed in the premises.

I have the honor to be, sir, very respectfully, your obedient servant,

ALEX. DELMAR, *Director.*

Hon. HUGH McCULLOCH,

*Secretary of the Treasury.*



LETTER  
OF  
THE ATTORNEY GENERAL,  
COMMUNICATING,

*In compliance with a resolution of the Senate of February 29, 1868, information in relation to the case of Lucius P. Bryan, some time under indictment in the United States court for the district of Connecticut for robbing the mails.*

MARCH 4, 1868.—Read, referred to the Committee on the Judiciary, and ordered to be printed.

ATTORNEY GENERAL'S OFFICE,  
Washington, March 4, 1868.

SIR: I have the honor to acknowledge the receipt of the resolution of the Senate of February 29, 1868, calling for information in relation to the case of Lucius P. Bryan, some time under indictment in the United States court for the district of Connecticut for the offence of robbing the mails.

In reply to said resolution, I have the honor to state that upon a careful investigation of the papers presented to me by Senator Dixon, copies of which are herewith transmitted, I deemed it my duty to direct the United States attorney to enter a *nolle prosequi*. No previous inquiry was made of the district attorney, as the assistant district attorney, who had immediate charge of the case, and was personally cognizant of the facts, fully certified to the correctness of the statements upon which the order was made, and recommended a *nolle prosequi*. I am not advised as to what course has been taken, under the order, by the district attorney.

I have the honor to be, very respectfully, your obedient servant,  
HENRY STANBERY,  
Attorney General.

Hon. B. F. WADE,  
President of the Senate of the United States.

*To his Excellency Andrew Johnson, President of the United States:*

The undersigned, inhabitants of the city of Waterbury, Connecticut, having learned with great regret that a prosecution is pending against Lucius P. Bryan, of said Waterbury, in the United States district court for the district of Connecticut, for taking from the mail a few magazines and articles of trifling value, respectfully represent and entreat your excellency to direct that *nolle prosequi* be entered in said cause; and for reasons therefor, they say that they believe said Bryan has fully and sincerely repented for said offence, and that prior thereto he has conducted himself with integrity in the business of mail agent, and that he has a very respectable family dependent upon him; and they fully believe the ends of public justice have been attained by his removal, and the public prosecution against him; and that he has made full restitution for the



few articles taken by him so far as in his power, and that said prosecution should be no further pursued.

Greer Kendrick, lieutenant governor; J. W. Webster, judge probate; S. M. Buckingham, N. J. Welton, D. B. Hurd, George E. Perkins, E. Levenworth, Willard Spencer, William Brown, George Blakeslee, Nathan Dickman, B. P. Chatfield, P. G. Rockwell, F. J. Kingsbury, president national bank; Samuel G. Blackman, John F. Bronson, J. M. Bussell, A. Sperry, postmaster; M. A. Osborn, editor Register; D. R. Wright, assistant United States attorney; L. W. Sperry, mayor, New Haven; T. E. Doolittle, late United States attorney; A. E. Burr, editor Hartford Times; James F. Babcock, A. L. Train, editor Palladium; P. R. Carll, United States deputy marshal, and John B. Carrington, editor Journal and Courier.

Dated at Waterbury, January, 1868.

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NEW HAVEN, *February 3, 1868.*

SIR: Lucius P. Bryan, late mail route agent, is now under bonds for trial on a charge of taking from the mail distributing car a few articles, some of which were loose in their packages, and the whole amounting in value, as I learn, to less than two dollars.

The United States laws are necessarily severe in such cases, if the accused be tried and convicted. Under our State laws the bonds would not probably exceed fifty dollars, and the penalty would be less.

The articles taken were bits of ribbon, a cheap pencil-case, a magazine, &c. boyish purloinings. The penalty, under the United States laws, would be wholly disproportioned to the offence, and it would therefore seem to be a case for Executive interference to save the excellent family from further disgrace.

He has a brother who is a distinguished clergyman; another who is one of our leading merchants, and his father is one of our very best citizens. They are all, including the accused, enduring daily agony on account of this sad affair.

An order from the President to enter a "*nolle*" against further proceedings, I think, would be regarded with general satisfaction by those acquainted with the facts. My son-in-law was one of the grand jury that indicted the accused, and he informs me that if he were not obliged, in view of Bryan's confession, to present him for trial, he should not have done it. He thinks the case has gone far enough, and that it would be cruel to push it further.

Very respectfully, your obedient servant,

JAMES F. BABCOCK.

The PRESIDENT.

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SENATE CHAMBER, *March 3, 1868.*

DEAR SIR: My attention has been called by Mr. Stitt, pardon clerk in your office, to the resolution of the Senate asking for information in relation to the case of the United States vs. Lucius P. Bryan. In reference to this resolution it is proper that I should make the following statement:

I was applied to a few weeks since in behalf of the relatives of Lucius P. Bryan to obtain for him a pardon or a discontinuance of the prosecution commenced against him, on the ground that his offence was so trivial that the ends of justice would not be advanced by his trial and conviction. I was informed and believed that the property taken by him consisted only of *one lead pencil* and a *small piece of ribbon*, all of the value of less than two dollars. I was further informed and believed that these articles were not taken directly from the mails, but had fallen out by accident, and further, that this was Bryan's only alleged crime. I was strongly urged to interest myself in his behalf on

account of the deep distress of his parents, who are among the most worthy and respectable of my constituents. I therefore called upon you and stated the above facts. I said to you that the affair, if I had been correctly informed, seemed too trivial to warrant a prosecution, and I recommended and advised, if consistent with your sense of duty, that the district attorney should be instructed to enter a *nolle prosequi* in the case. In view of all the circumstances, you decided, as I understood, to take this course, and the district attorney was advised accordingly.

With high respect, your obedient servant,

JAMES DIXON.

Hon. HENRY STANBERRY,  
*Attorney General.*

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NEW HAVEN, *February 4, 1868.*

SIR: I have heretofore signed a petition to your excellency recommending for reasons therein set forth that a *nolle prosequi* be entered in the case of the United States *vs.* Lucius P. Bryan, for peculations upon the United States mails. I acted as assistant district attorney in the prosecution, and can, therefore, say that the facts all geded in the petition to your excellency are true. Were I full attorney I would *nolle* the case in the ordinary discharge of my duties; but, as I am not, I can only recommend it in the manner I have, doubting, of course, the propriety of troubling your excellency about the matter.

Most respectfully,

D. B. WRIGHT.

The PRESIDENT.

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*To the President of the United States:*

SIR: The undersigned members of the grand jury which presented Lucius P. Bryan (a route agent of the United States postal service) for trial before the United States for abstracting sundry small articles from the mails, do respectfully represent, that while we had no alternative, in face of the evidence, but to find a true bill against said Bryan, we, in view of the small value of the articles taken, and the fact that no article was taken from a package not previously broken, do not see sufficient moral guilt in the offender to warrant the infliction of a serious penalty, and in consideration of the previous correct character of the accused, and the intense suffering which his lapse from duty has already caused his own immediate family and that of his aged father and brothers, we most cheerfully ask that the President will order a dismissal of the case, and we believe that almost every member of the jury would unite with us in this request.

Very respectfully,

WM. R. CONE, *Attorney at Law,*  
*Foreman of the Grand Jury.*  
HENRY A. PERKINS,  
*President Hartford Bank.*  
W. J. GOODSSELL.  
JOHN WOODRUFF,  
*Collector Internal Revenue and Late Member of Congress.*  
JOHN B. ROBERTSON.  
W. C. WHITEMAN.  
W. HUMES.  
A. E. BURR,

*Editor Hartford Times.*

POST OFFICE, *New Haven, Connecticut, February 3, 1868.*

SIR: I wish to present, for your kind consideration, the case of Lucius P. Bryan, late general route agent for the State of Connecticut. Mr. Bryan is now under bonds for trial, charged with taking from the mails sundry small articles of very little value. Mr. Bryan, up to the time of his arrest, was considered one of our best agents. He has held many places of profit and trust in our State, to the full satisfaction of all. He belongs to one of our best families. While his own little family need his care and protection, his two grown-up daughters feel very keenly the misfortune of their father. In my opinion, and I know all the circumstances in the case, Mr. B. has suffered enough for the small petty offence committed, and I commend him to your sympathy, and hope for Executive interference in his behalf.

Very respectfully, your obedient servant,

A. D. SPERRY.

The PRESIDENT.

POST OFFICE, *Hartford, Connecticut, February 4, 1868.*

I fully concur with Mr. Sperry, postmaster at New Haven, in his views as expressed in the foregoing letter to the President.

E. S. CLEVELAND,  
*Postmaster, Hartford, Connecticut.*

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ATTORNEY GENERAL'S OFFICE,  
*Washington, February 8, 1868.*

SIR: The Attorney General has had under consideration the case of Lucius P. Bryan, now under indictment in your district for stealing from the mails. In view of the facts set forth in the petition and the accompanying letters of Mr. D. R. Wright and others, he instructs me to say that you are hereby directed to enter a *nolle prosequi* in the case.

Very respectfully, yours,

M. F. PLEASANTS,  
*Chief Clerk.*

HIRAM WILLEY, Esq.,  
*United States Attorney, New London, Connecticut.*

LETTER  
OF  
THE SECRETARY OF WAR,  
COMMUNICATING

*A report by the Chief of Engineers, giving information as to the expense of removing the reefs in the East river, New York harbor, known as Battery Diamond and Coenties, in compliance with the resolution of the Senate of February 4, 1868.*

MARCH 6, 1868.—Read, referred to the Committee on Commerce and ordered to be printed.

WAR DEPARTMENT,  
Washington City, March 6, 1868.

SIR: In compliance with the Senate resolution of the 4th February, 1868, asking for an estimate of the expense of removing the reefs in the East river, New York harbor, known as Battery Diamond and Coenties, I have the honor to send herewith a report by the Chief of Engineers, of March 5, on the subject, giving the information desired.

Your obedient servant,

EDWIN M. STANTON,  
Secretary of War.

HON. B. F. WADE,  
President of the Senate.

HEADQUARTERS CORPS OF ENGINEERS,  
Washington, D. C., March 5, 1868.

SIR: The resolution of the Senate of the United States, of the 4th ultimo, requesting the Secretary of War "to communicate to the Senate an estimate of the expense of removing the three reefs known as Battery reef, Diamond reef, and Coenties reef, in the East river, New York harbor," referred to these headquarters for report, is herewith returned, with a copy of the report of Lieutenant Colonel and Brevet Major General John Newton, corps of engineers, to whom the matter was intrusted. His views are concurred in.

The estimated cost of removal of the reefs in question is as follows, viz:

For their removal to a depth of 24 feet . . . . .	\$463, 145 00
For their removal to a depth of 22½ feet . . . . .	299, 370 00

Attention is invited to the letter from these headquarters, of this date, in relation to the removal of obstructions from Hell Gate, and it is suggested, in

order that the necessary machinery may be applied to all the works, that a general appropriation be made (to be expended upon each of the obstructions in such order as circumstances may require) for the first year of \$500,000.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,  
*Brigadier General of Engineers, Commanding.*

Hon. E. M. STANTON,  
*Secretary of War.*

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UNITED STATES ENGINEER OFFICE,  
395 Canal street, New York, March 2, 1868.

GENERAL: Having been required to make estimates for the removal of Battery reef, Diamond reef, and Coenties reef, I have the honor to submit the following report:

BATTERY REEF.

This reef is in reality a shoal formed of successive deposits from the currents. The existence of rock, except in the form of ballast-stone thrown overboard, has not been determined. As it was not contemplated to make surveys and observations at this time, I have simply to avail myself of the results of those already furnished.

The published comparative chart of the lines of 1837 and 1855 show during this interval a considerable advance of the eighteen and twenty-four feet curves into the channel within limits included between Castle Garden and Whitehall. This projection of the shoal seems to be coincident with the erection of a rubble wall nearly in the line of the present Battery wall.

The published comparative chart of 1855 and 1859, during which interval the Battery extension attained considerable development, shows no general advance of the eighteen and twenty-four foot curves into the channel, though there was a considerable deposit during this period, particularly in the re-entering between Pier No. 1, North river, and the branch of the eighteen-foot curve just south of Castle Garden.

The comparative chart of 1859 and 1867, during which interval the Battery extension had been virtually completed, shows no increase of the shoal channelwards, except a small salient projection of the twenty-four and eighteen foot curves of the shoal of 1867 beyond the corresponding curves of the former date.

The comparison, however, clearly shows a general receding of the twenty-four, eighteen, and twelve foot curves of 1867, a diminution of the size of the shoal, and a general increase of its depth, indicating a favorable current action, and a gradual return to the state of things existing before the Battery extension was inaugurated.

The survey of 1867 does not embrace the space between Castle Garden and Pier No. 1, and therefore the change, if any, in this re-entering angle is not known. The comparative chart of 1859 and 1867 is sent herewith.

The Battery shoal is due primarily to the meeting at this point of the ebb currents and to the dividing of the flood currents of the East and North rivers; secondly, in my opinion, to the great projection of Pier No. 1, North river, beyond the line of shore; and thirdly, to the Battery extension, and to the careless mode of effecting it, whereby large quantities of material were washed off and deposited on the shoal. But the influence of the Battery filling, beyond a decrease of depth on the shoal and the formation of lumps, has not been materially felt in the advance of the shoal towards the channel. The indications

of the survey of 1867 are favorable as to the probable effect of dredging in removing the point of the shoal. The space to be dredged lies between the projected twenty-two and eighteen foot curves represented on the tracing of 1867 in broken and dotted lines. It is impossible to state whether all the space dredged will ultimately be a gain; but the removal of the point of the shoal would probably be permanent.

*Estimate.*

Dredging 37,000 cubic yards, at 35 cents .....	\$12,950 00
Contingencies .....	1,295 00
Total .....	<u>14,245 00</u>

And a smaller sum than the above, devoted only to cutting away the outer boundary of the shoal, would likewise be beneficial.

DIAMOND REEF.

This reef, situated in the channel between Governor's island and the Battery, has at the twenty-four foot curve a length of 366 feet, and a maximum width of 255 feet.

The information obtained from the various surveys and examinations is very discrepant.

The last examination, in 1867, made for the Chamber of Commerce, limits the amount to be removed mainly to three comparatively small lumps in the reef, upon which the maximum depth at low water is eighteen feet.

Of the Coast Survey charts of this reef that of Lieutenant Commanding Craven, of 1856, is the most elaborate and detailed, and is entitled, for these reasons, to superior consideration for the purposes of this estimate.

M. Maillefert fired upon this reef seventy-four charges, at an expenditure of \$1,400 in round numbers. His operations were suspended for want of funds, and resulted in reducing the depth of the highest portions of the reef from thirteen and a half feet to eighteen feet at low water. The examination of 1867, if reported correctly, would prove either that an incredible quantity of work was effected by this small sum, which no one has claimed for it, or else that Lieutenant Craven's chart is entirely in error. The examination of 1867, besides, was not carried sufficiently far (it being perfected in four hours) to present a good delineation of the reef, nor is the reduction of the soundings reliable, this having been done, not by comparison with coast survey standard of mean low water, but by estimate.

For the above reasons, and for want of more recent and detailed surveys, I am compelled, for the purpose of this estimate, to rely upon the general correctness of Lieutenant Craven's survey, but have supposed that the minimum depth at low water was not less than twenty feet. This supposition would more than compensate for any portions removed by previous blasting.

Two separate estimates are made—one for removal to a depth of twenty-four feet at mean low water, the other to a depth of twenty-two feet low water at spring tides, corresponding nearly to twenty-two and a half feet at mean low water.

It is a serious question whether any portion of the harbor, in mid-channel, should have a less depth than twenty-four feet at mean low water; whether the present demands of commerce actually require it or not.

The area of rock to be removed, included within the twenty-four foot curves, is 57,700 square feet, and within the twenty-two and a half foot curve 45,800 square feet. The quantities of rock to be removed corresponding to these depths are, respectively, 157,400 and 74,050 cubic feet.



## COENTIES REEF.

This reef is six hundred feet from Coenties Slip pier. Work was undertaken on it by the New York Submarine Engineering Company, in 1861 and 1863, under contract with the New York city authorities, until it was finally suspended, owing principally, as alleged, to continual losses and accidents due to collisions from passing vessels.

I have obtained from Mr. Thomas Bland, the secretary of the company, a sketch showing the amount of work done, and this quantity, as closely as it could be ascertained, is deducted from that which was obtained from Lieutenant Craven's chart.

This reef is two hundred and fifty feet long and one hundred and thirty feet wide. The area to be removed at the twenty-four foot curve is 19,000 square feet, and at the twenty-two and a half foot curve 12,400. The quantity of rock would be, respectively, 56,900 and 31,900 cubic feet.

I decidedly recommend, as in the case of Diamond reef, that it be excavated to a depth of twenty-four feet at mean low water.

The removal of both Diamond and Coenties reefs I consider of great importance to the harbor of New York.

The surveys of Lieutenant Craven, which were primarily intended for purposes of navigation, and fully adequate to the end in view, are not, however, specially suited to the object of determining the shape and contents of the rock to be removed, and I recommend, before work be commenced, that another survey be made. The results of this may be important in modifying the estimates drawn from the present sources of information, or at least in clearing up doubts as to the correctness of the quantities assumed.

The experience of the company who operated upon Coenties reef has been to demonstrate the necessity of a suitable protection against collisions with passing vessels for the men at work; the company used large booms, formed in the shape of a lozenge, and to include the space operated upon, but this device was found to be entirely insufficient for the security of life and property.

As a part of the estimate therefor it will be necessary to provide for the cost of such protection, which, in the simplest form, would appear to be four strong barges or hulks, moored to surround the desired space. This outlay, which would answer for both reefs, may amount to between \$35,000 and \$40,000.

*Estimate.*

## DIAMOND REEF.

Removal to twenty-four feet mean low water; amount asked for..	\$309,400
Removal to 22½ feet mean low water.....	185,125

On account of machinery, protection against collisions, and other incidental expenses, the removal of the smaller amount of rock would cost proportionally more.

## COENTIES REEF

Removal to twenty-four feet mean low water; amount asked for..	\$139,900
Removal to 22½ feet mean low water.....	100,000

I respectfully propose, in asking for appropriations, that the amount be appropriated in gross, *i. e.* so much for Battery shoal, Diamond reef, and Coenties reef, without naming the sum for each, and if the sum asked for Hell Gate could

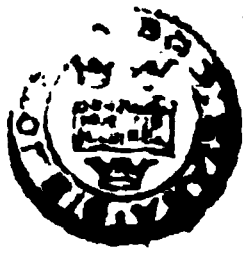
be included in the same general appropriation, viz., for removing aforementioned rocks, and Pot rocks, Frying-pan, and Shelldrake, it would be convenient. I do not desire that the contractors should have the benefit of knowing what amounts are estimated for each part of the work.

By including the rocks at Hell Gate in one bill, with the others, the machinery would be transferable from one rock to another, and the cost of preliminary trials and of valuable experience would be distributed, as it ought to be, among all, instead of being charged to one rock, as it would be in the other alternative.

Respectfully submitted:

JOHN NEWTON,

*Lieut. Col. of Engineers and Brevet Maj. Gen. U. S. Army.*







MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,



*In compliance with a resolution of the Senate of the 17th of February, ultimo, information in relation to the alleged interference of our consul at Rome in the late difficulties in Italy.*

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MARCH 6, 1868.—Read, referred to the Committee on Foreign Relations, and ordered to be printed.

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*To the Senate of the United States :*

In answer to the resolution of the Senate of the 17th February, ultimo, concerning the alleged interference of the United States consul at Rome in the late difficulties in Italy, I transmit a report from the Secretary of State, containing the information called for by the resolution.

ANDREW JOHNSON.

WASHINGTON, *March 4, 1868.*

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DEPARTMENT OF STATE,  
*Washington, March 4, 1868.*

The Secretary of State, to whom was referred a resolution of the 17th ultimo, requesting the President, if not incompatible with the public interest, to communicate to the Senate whatever information has been received on the subject of the alleged interference of our consul at Rome in the late difficulties in Italy, and especially during the late attempted invasion of the Roman states, has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted :

WILLIAM H. SEWARD

To the PRESIDENT.

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*List of accompanying papers.*

Mr. Rothwell to Mr. Seward, November 2, 1867.  
Mr. F. W. Seward to Mr. Cushman, November 29, 1867.  
Mr. Cushman to Mr. F. W. Seward, November 15, 1867.  
Mr. Cushman to Mr. F. W. Seward, December 18, 1867.  
Mr. Seward to Mr. Cushman, January 21, 1868.



ROME, via FELICE, No. 123, STUDIO 10, SECONDO PIANO,  
*Wednesday, November 2.*

SIR: With feelings of the deepest sorrow I am constrained to inform you that I heard this day, whilst lamenting, that our English consul here at such a time was not a man of more knowledge and power. This was admitted, but one of the gentlemen present said, "then what will you say of the American consul, who, armed with his rifle, joined the party who called themselves the 'modern crusaders,' and are known here as the zouaves," (what a name for crusaders!) foreigners banded together for the purpose of riveting faster the chains that are wound around the poor Romans. For two days this American did *godly service* with his friends the zouaves, in mortal combat against the Italians, whose nobility of soul has aroused them to seek for a nationality. No one here, and I least of all, could suspect that America would be dragged in the mire by her unworthy representative, as France is by her dictator. I felt it my duty to ascertain the full truth of the report. It was confirmed to me, and I learn also that this dishonored person (I need not dignify him with the title of man) returned to Rome, like another Norval, rich in "honors which his sire denied," proudly boasting of the wound he had received; unfortunately it was not "wide as a church door," but enough to mark his infamy, and to cast a stigma on the proud republic of America.

Without further comment, I write myself, sir, your most obedient servant,  
 RICHARD ROTHWELL

Hon. W. H. SEWARD,  
*American Foreign Minister.*

P. S.—I am not an entirely unknown person, for I can boast of attentions (and in America, too) from the honorable Charles Sumner, Dr. Howe and others.

I must enclose this to England to insure it any safety in passing through the post office here.

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[Private.]

UNITED STATES CONSULATE,  
*Rome, November 15, 1867.*

DEAR SIR: I take the liberty of addressing you unofficially, in order to lay before you a few of the incidents of the late disturbances in Rome, which, from the fact that my information was gained from personal observation, may be interesting.

Finding it was utterly impossible to gain any information of a reliable nature in Rome, the reports from both sides being of so contradictory a nature, I determined to accompany one of the moving columns of the Pontifical troops as a spectator, and see for myself, and get from the people themselves their views and wishes with regard to a change of government. I was present with that column for four days, and witnessed one battle, which resulted in the capture of the Garibaldian garrison of the town of Nevoia.

Without exception, the people of the country expressed themselves in favor of the existing government.

• • • • •  
 I have the honor to remain, your obedient servant,

EDWIN C. CUSHMAN,  
*United States Consul.*

Hon. F. W. SEWARD,  
*Assistant Secretary of State.*

No. 24.]

DEPARTMENT OF STATE,

*Washington, November 29, 1867.*

SIR: I give you for your information, and for such comment as you may think proper to make, a copy of a letter received at this department from Mr. Richard Rothwell, at Rome, who refers for character to the Hon. Mr. Sumner and to Dr. Howe, of Boston, and who assumes that the correspondence he has opened could not be expected to pass safely through the post office at Rome.

I am, sir, your obedient servant,

F. W. SEWARD,  
*Assistant Secretary.*

E. C. CUSHMAN, Esq.,  
*United States Consul, Rome.*

No. 22.]

UNITED STATES CONSULATE,

*Rome, December 18, 1867.*

SIR: I am in receipt of your despatch No. 24, enclosing the copy of a letter to the department by a Mr. Richard Rothwell, an English artist, (as I now for the first time learn,) resident in Rome. Upon inquiry concerning this person, he is described as "an old man of eccentric habits, and very little reputation as an artist."

Without remarking upon this person, or upon the peculiarly disjointed character of the communication, further than to marvel that I should have been placed by the writer in such distinguished conjunction with the British consul at Rome and the Emperor of the French, I beg leave to assure you that the "gross and detail" of Mr. Rothwell's statements, with regard to me, are founded upon the most absolute misrepresentations. I have before furnished you with an account of my endeavors to obtain information with regard to events going on in Rome, and I would here add that I did not "go out to join the Papal troops armed with my rifle." I received permission from the commanding general to join and accompany the moving column of the Pontifical troops, simply as a spectator, and would have been refused that permission had I even sought (which I did not) to go in any other capacity.

During the fight at Nevola I suddenly and unexpectedly found myself under fire, and not being able to perceive the propriety of retreating, I remained where I was, until, seeing an officer fall, as I supposed, mortally wounded, I endeavored to render a wounded man some assistance, in doing which I was slightly wounded, and found myself the target for a Garibaldian rifle. Twice I was fired at by the same person, and feeling that unpleasant results might ensue, I picked up a gun for my own protection, seeing which my assailant retreated, and ceased to annoy me. Thus I became mixed up in this affair. Immediately the town surrendered I repaired to the hospital, and *there* volunteered to assist in the care of the wounded on both sides—a service which was thankfully received and gratefully acknowledged.

I might perhaps be blamed for too much zeal in running the personal risks I did, to the end that I might obtain some reliable information to forward to the department; but further than this, I confidently assume that I have not laid myself open to the censure of the department, whose interest has ever been uppermost in my wishes and endeavors, in spite of any false representations to which I have been subjected, either in this letter of Mr. Rothwell's (which I suspect has been incited by a person here who is known not only to be inimical to me, but anxious for my office) or elsewhere.

It appears from his letter that Mr. Rothwell's denunciations are confirmed "upon hearsay." I am naturally mortified, but not surprised, that my actions

CONSUL AT ROME.

have been misrepresented, but can only say, "If I am traduced by ignorant tongues, which neither know my faculties nor person, yet will be the chroniclers of my doings, let me say 'tis but the fate of place," &c.

Respectfully awaiting any action on this subject which seems wisest and best to my superiors in office,

I have the honor to remain, your obedient servant,

EDWIN C. CUSHMAN,  
*United States Consul.*

Hon. F. W. SEWARD,  
*Assistant Secretary of State.*

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No. 27.]

DEPARTMENT OF STATE,  
*Washington, January 21, 1868.*

SIR: I have taken the President's directions concerning the complaint preferred against you for a departure from the proprieties of the consular office on the occasion of the late Garibaldian inroad upon the Papal domain.

I regret to find that your explanation, while it modifies the exaggerations which attended the complaint against you, nevertheless substantially justifies the complaint itself. No instructions from this government required or authorized you to attend the Pontifical army in the field, with or without permission of the commanding general, either as a belligerent, or as a spectator; no interest of the United States could be served by such a proceeding. No motive could be reasonably assigned for it except an interest in the cause in which the army was engaged, or mere curiosity. Either of those motives would be inconsistent with the consular character and relation. Had you been prudent you would have forecast and avoided the condition of finding yourself suddenly and unexpectedly under fire, and would have saved yourself from the necessity of considering the question of retreat. By appearing on the field, by remaining while under fire, and by assisting a wounded combatant, by getting slightly wounded yourself in that proceeding, and by taking up a musket in self-defence, and thus driving away an assailant, you did indeed become "mixed up" in the affair, and not as an idle spectator, but in the precise character of a belligerent.

Your conduct is for these reasons entirely disapproved. It will depend in part upon your own better conduct hereafter, and in some part upon circumstances not yet fully understood, whether the department can be content to leave the case with this reprimand.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

E. C. CUSHMAN, Esq.,  
*United States Consul Rome.*

MESSAGE  
OF THE  
PRESIDENT OF THE UNITED STATES,  
COMMUNICATING,

*In compliance with a resolution of the Senate of January 13, 1868, correspondence in relation to a claim to the guano on Alto Velo, an island in the vicinity of Saint Domingo.*

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MARCH 6, 1868.—Read, and referred to the Committee on Foreign Relations.

MARCH 9, 1868.—Ordered to be printed.

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WASHINGTON, *March 6, 1868.*

*To the Senate of the United States :*

I transmit to the Senate the accompanying report of the Secretary of State, in answer to their resolution of the 13th January.

ANDREW JOHNSON.

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DEPARTMENT OF STATE,

*Washington, February 12, 1868.*

The Secretary of State, to whom was referred the resolution of the Senate of the 13th ultimo, requesting the President to communicate to that body, "if deemed compatible with the public interest, a copy of any official correspondence on the subject of a claim, under the act of Congress of the eighteenth of August, eighteen hundred and fifty-six, by any citizen of the United States, to the guano on Alto Velo, an island in the vicinity of Saint Domingo," has the honor to submit to the President the accompanying report, together with a further argument of the claimants which has been filed in the Department of State.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

## ALTO VELO.—CLAIM OF PATTERSON AND MURGUIENDO.

DEPARTMENT OF STATE, *January 17, 1867.*

The Secretary of State has the honor to submit the following report:

## GUANO ACT OF 1856.

Appendix No. 1. What is called the Guano Island act became a law on the 18th of August, 1856. The law substantially declares that when any citizen or citizens of the United States may have discovered, or shall hereafter discover, a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof and occupy the same, said island, rock, or key may, at the discretion of the President of the United States, be considered as pertaining to the United States: provided, however, that notice be given by the discoverer, as soon as practicable, to the Department of State of such discovery, occupation, and possession, verified by affidavit, describing the island, rock, or key, and the latitude and the longitude thereof, and showing that such possession was taken in the name of the United States; and that satisfactory evidence be furnished to the State Department that such island, rock, or key was not, at the time of the discovery thereof, or of the taking possession and occupation thereof, in the possession or occupation of any government, or of the citizens of any other government. The law further declares that the discoverer, or his assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying such islands, rocks, or keys for the purpose of obtaining guano, and of selling and delivering the same to citizens of the United States for the purpose of being used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding eight dollars per ton for the best quality, or four dollars per ton in its native place of deposit: provided, that no guano shall be taken from said island, rock, or key except for the use of citizens of the United States, or of persons resident therein: provided, further, that the discoverer, or his assigns, first enter into bonds, with such penalties or securities as may be required by the President, to deliver the guano to citizens of the United States for the purpose of being used therein, and to none others, at the price aforesaid, and to provide all necessary facilities for that purpose within a fixed time; and that a breach of the provisions of the bond shall be deemed a forfeiture of all rights secured under and by virtue of the law. The law still further declares that the President of the United States is thereby authorized at his discretion to employ the land and naval forces of the United States to protect the rights of the discoverer or his assigns.

## HISTORY OF THE CLAIM.

The documents are voluminous, controversial, and conflicting. W. T. Kendall, in a letter to the Secretary of State, May 14, 1860, stated that his brig Delta, of Baltimore, Captain R. Daulby, on the 19th of March, 1860, discovered a deposit of guano upon Alto Velo island; that he took possession of the island, loaded his vessel with guano and sent her home, Captain Daulby remaining on the island with two men to work and hold possession. Kendall alleged that the island lay out of the jurisdiction of any other government, and that it was uninhabited at the time of discovery. He concluded his letter with a request that the Secretary of State would cause a proper entry to be made in Kendall's name as owner and discoverer of said guano deposit.

Patterson and Murguiendo, about the same date, wrote to the Secretary of State upon the back of a printed copy of the Guano Island law. They assumed to give notice to the Secretary of State that in con-

Appendix No. 3.

formity with the aforesaid law they had taken possession of the island of Alto Velo, in the Caribbean sea, latitude  $17^{\circ} 28' 11''$ , longitude  $71^{\circ} 41' 30''$ ; that the island was then in their possession and was occupied by Captain S. R. Kimball and crew of the schooner Boston, (port not specified.) Patterson and Murguendo proceeded in their letter as follows: "When we get our duplicate letters, the originals of which were sent us through Captain Daulby, of the brig Delta, which, by some unaccountable and unexplained reason, have not as yet come to hand, we will furnish the Department with full particulars and the necessary proofs called for by this act." The writers added: "We would have given this notice to the Department (of State) on the 29th of April, 1860, on receipt of our second letters of that date, but waited for the original letters, which contained full particulars."

#### KENDALL'S PROOFS.

William T. Kendall wrote to the Secretary of State, June 5, 1860, and submitted proofs that he had discovered a deposit of guano on the island of Alto Velo, and that he had taken possession of and located himself upon it. Upon these proofs he asked the Secretary of State to prescribe his bonds in conformity with the act, and said that he had a vessel ready to send to the island, and wished to go there properly authorized. Kendall's proofs, thus submitted, were substantially the following:

A deposition made, on the 6th of June, 1860, by George W. Goslin, James Gordon, and John Pugh, to the effect, namely, that Kendall, on the 28th day of January, 1860, fitted out at Baltimore the brig Delta, and despatched her, under the command of Captain Richard Daulby, to the Caribbean sea; that Goslin, Gordon and Pugh, on the 19th of April, arrived in the said brig Delta at an island "called Alta Vela, lying in latitude  $17^{\circ} 30'$ , longitude  $72^{\circ} 40'$ , about forty miles from the island of San Domingo;" that they landed upon the island, and found there at least 15,000 tons of guano. Goslin, Gordon, and Pugh further depose, that the said island was at the time uninhabited, and that it bore no traces of having been at any previous time inhabited; that, being unclaimed and not occupied, said Captain Richard Daulby took possession of the island in the name of the United States, and for the benefit of W. T. Kendall; that they raised a flag and built a house upon the island, loaded the brig [Delta] with guano, and sent her to Baltimore to W. T. Kendall, in command of [the before-named] Goslin. They further deposed that Captain Daulby remained in possession of the island. The deponents then gave description of the guano, which they valued at fifteen dollars a ton.

#### CORRESPONDENCE OF THE STATE DEPARTMENT.

The papers before recited being on file, Mr. Appleton, Assistant Secretary of State, wrote, on the 7th of June, 1860, to W. T. Kendall. Mr. Appleton acknowledged Kendall's communication, and informed him that a letter had been addressed to the Department on the 14th ultimo by Patterson and Murguendo, claiming to have taken possession of "Alta Vela" island, in latitude  $17^{\circ} 28' 11''$ , longitude  $71^{\circ} 40' 30''$ , under the guano act; and that at the date of their letter it was still in their possession, and occupied under their authority by S. R. Kimball and crew of their schooner Boston. Mr. Appleton remarked that no evidence was furnished by Mr. Kendall of the quantity of guano upon the island, and no certificate of any respectable chemist as to its quality; and further, that since, from the name of the island, it must have been discovered by Spaniards, and from its position might be claimed as within the jurisdiction of the Dominican Republic, a compliance with the request to prescribe at that time the penalty of the bond was not deemed advisable.



W. T. Kendall replied to the Secretary of State on the 19th of June, 1860.

Appendix No. 7. This reply was accompanied by a copy of an analysis of guano  
 Appendix No. 8. made by a chemist, which showed that the guano found on the island contained 29.16 per cent. of phosphoric acid, and 70.84 per cent. of lime. Kendall insisted, in his reply, that he had already shown that there was a very large quantity of guano on the island, and that the island "lies entirely out of the jurisdiction of Hayti." He further stated that Haytien officers came upon the island while it was in charge of Kendall's men, and did not molest them, nor forbid them from taking away the guano, but left them in peaceable possession thereof. He denied a prior discovery by Patterson and Murguiendo. He alleged that one Captain Kimball, who was sailing for these parties, did indeed land upon the island some ten days after he, Kendall, had raised the American flag, and had dug enough to load his vessel. Kendall further insisted that the Secretary of State should prescribe the proper bonds for him, and allow him to go and take away the guano by proper authority.

William H. Trescott, Assistant Secretary of State, rejoined by letter to  
 Appendix No. 9. W. T. Kendall on the 21st of June, 1860. In this letter Mr. Trescott said, that in the absence of any further proof, the Department could do no more than refer Mr. Kendall to the letter from the Department of June 7th, and say that any information which Mr. Kendall chose to file in this Department would receive immediate attention.

W. T. Kendall wrote a letter to the Secretary of State on the 22d of June, 1860. In this letter Kendall insisted that he had clearly proved  
 Appendix No. 10. that his agent, Captain Richard Daulby, "did, on the 19th of April, 1860, take peaceable possession of the island called Altivela, an uninhabited place, without the most remote sign of ever having been inhabited;" also, that upon this island Daulby discovered a large and rich deposit of guano, and that the island "lies entirely out of the jurisdiction of Hayti."

#### PATTERSON AND MURGUIENDO'S PROOFS.

We find next a letter of George W. Barry, in behalf of Patterson and Murguiendo, to the Department of State, written on the 16th of July, 1860, which letter was accompanied by an affidavit of S. R. Kimball, and also by a letter from Patterson and Murguiendo. Kimball, in his affidavit, relates the discovery as follows: That on the 23d day of February, 1860, he, then in command of the schooner Boston, of Baltimore, owned by Patterson and Murguiendo, and for whom he was acting as agent, took possession of the island of Alto Velo, in the name of the United States, in the presence of J. A. Miller, first mate, and Mathias Fuchs, steward of said schooner; that at the time of his taking possession of said island there were no inhabitants or habitations whatever thereon, or traces of any kind of there ever having been either on the island; that he left on said island a written notice in conformity to the guano act; that on the 23d of March following he returned again to said island, having left it for the purpose of chartering vessels to export the guano; that he was then (at the time of making the affidavit) in peaceable possession of the island, shipping guano from and working thereon.

A letter of Patterson and Murguiendo to the Secretary of State, January 1, 1861, is given in the appendix, in which letter they state that  
 Appendix No. 14. they obtained from the State Department a certificate, acknowledging their discoveries of the guano deposits on Alto Velo, under the guano act of 1856; that they had sent that paper to the island, and that they would like to have a duplicate to annex to a statement which they were preparing to be laid before the State Department, in view of their expulsion from the island.

A letter of the Secretary of State, the Honorable Jeremiah S. Black, to Pat-

Appendix No. 15. terson and Murguiendo, on the 2d day of January, 1861, appears in the appendix. Mr. Black wrote that as the certificate to which they referred in their letter merely attested the correctness of copies of original papers which they had before filed in the Department of State, and inasmuch as no papers of a prior date, relating to Alto Velo, had been received by the Department, it was not deemed necessary to issue a duplicate certificate for the purpose which they indicated.

## THE EVICTION.

A memorial and papers in behalf of Patterson and Murguiendo were presented to the Secretary of State, Mr. Black, and filed in the Department on or about the 7th of January, 1861. Copies are in the appendix, with references as follows: A deposition of John A. Miller, (16;) a letter from John A. Miller to Captain Kimball, (17;) a deposition of Samuel R. Kimball, (18;) a memorial of Patterson and Murguiendo, filed in the State Department, bearing date January 8, 1861, (19;) a protest made by Captain S. R. Kimball before Jonathan Elliott, Commercial Agent of the United States at San Domingo, (20.) The memorial of Patterson and Murguiendo was accompanied by multifarious letters, given in the appendix, namely: A letter of General Juan Evertz to John A. Miller, October 23, 1860, (21;) the answer of J. A. Miller to General Juan Evertz, without date, (22;) Juan Evertz to Captain Miller, October 24, 1860, (23;) Felipe F. de Castro, Dominican Minister for Foreign Relations to the United States Commercial Agent at St. Domingo, October 28, 1860, (24;) Jonathan Elliott, United States Commercial Agent, to John A. Miller, October 28, 1860, (25;) Juan Evertz, at St. Domingo, to United States Commercial Agent at St. Domingo, October 28, 1860, (26;) Jonathan Elliott, Commercial Agent, to the honorable Minister for Foreign Affairs of the Dominican Republic, October 29, 1860, (27;) S. R. Kimball to the United States Consul (commercial agent) at St. Domingo, November 15, 1860, (28;) Jonathan Elliott to S. R. Kimball, November 15, 1860, (29;) F. de Castro, Dominican Minister for Foreign Relations, to the United States Commercial Agent, November 19, 1860, (30;) Jonathan Elliott to the Minister for Foreign Relations, November 20, 1860, (31;) Jonathan Elliott to the Señor Comandante of the port of St. Domingo, November 28, 1860, (32;) Juan Evertz to Mr. Elliott, Commercial Agent, November 28, 1860, (33;) Señor Lavastida, Minister of War, charged with foreign relations, to the United States Commercial Agent, November 28, 1860, (34;) Jonathan Elliott, United States Commercial Agent, to the Minister for Foreign Affairs of the Dominican Republic, November 29, 1860, (35.)

The correspondence thus submitted by Patterson and Murguiendo admits of the following summary: Patterson and Murguiendo maintain that they complied with the provisions of the act of Congress, and gave notice to the Department of State; that at the time of the discovery and occupation of the island by the memorialists, the island was not in the possession or occupation of any other government, or of the citizens of any other government; that they remained in the occupation of the island, working and removing guano therefrom, from the 24th of March, 1860, to the 24th of October, 1860. On the 23d of October, 1860, the Dominican ship of war Merced, Juan Evertz commanding, appeared before

Appendix No. 21. the island, and sent ashore or delivered a letter, in which the commander said that his government was alarmed at the disagreeable advices that foreigners had violated the Dominican territory, invading the island of Alto Velo, which belongs to the legal jurisdiction of Azua, with the object of exporting guano that the said island encloses; that he was authorized, "invoking the right acknowledged by all civilized nations, to dislodge with the greatest brevity any foreigners that might be occupying that island, as well as the island of Beata." He required those intruders to leave Alto Velo within twenty-four hours.

Appendix No. 22. John A. Miller answered General Evertz in writing, and said that he (Miller) was in the employ of Captain S. R. Kimball, who

was then in Jamaica. Miller informed Evertz that he had no vessels there to ship himself and men from the island; that he was willing to submit to superior force, but asked the privilege of leaving one man on the island to take care of the property there. General Evertz replied, tendering the use of his own vessel for the embarkation of the party, but declined to grant permission to leave any person on the island. Patterson and Murguiendo, in their memorial, alleged that Evertz, on the 24th of October, 1860, landed fifty men, lowered the American flag, overturned the tents of the agents and laborers, destroyed their "materials," forced Miller and the laborers on board the *Merced*, and carried them prisoners to the city of St. Domingo.

The Dominican Minister for Foreign Affairs, on the 28th of October, 1860, wrote to the United States Commercial Agent at that place, that, having ordered a Dominican vessel of war to visit the islands of Beata and Alto Velo, they found twelve men engaged in extracting guano which was the property of the government of St. Domingo. While he insisted that he would have lawful right to try and punish these men, he nevertheless proposed to put them at the disposal of the Commercial Agent with all their effects, reserving to the government of St. Domingo the right to reclaim indemnity for the trespasses which had been committed. The United States Commercial Agent received Miller and the laborers with their "materials," in accordance with the proposal of the Dominican government; and the party seem thereafter to have been left entirely at liberty. Kimball, in behalf of the claimants, wrote from his schooner *Alice Mowe*, off the port of St. Domingo, to the Commercial Agent of the United States in that city. In that letter the writer complained that, at the time of their taking possession, the island was not in the exclusive possession of either government, as he knew it to have been "used by the citizens of both for many years as a fishing station." He stated that, nevertheless, he was ready to treat with either party who might establish a claim, to pay for what he had taken away. He added a disclaimer of any intention of trespassing upon the government, and offered to pay a fair rate for what guano had been removed, and to purchase what remained, as well as what might thereafter be discovered, if the government would give him back his property, and permission to occupy the island for that purpose. This offer was made, as he stated, "upon the supposition that they (the government) have a legal right to the island."

The Commercial Agent's reply to Kimball was that all the men and all the articles that had been taken from the island of Alto Velo by order of the Dominican government had been subsequently placed at the disposal of the Commercial Agent, and they awaited Kimball's arrival. The Dominican Minister for Foreign Relations proposed in his letter to the agent that a friendly arrangement should be adopted, the basis of which should be indemnity to the Dominican government for the value taken, and, in that case, a waiver of all other reclamations for damages. The Commercial Agent's reply was that Captain Kimball desired to settle amicably with the Dominican government for the value of the guano which had been taken, and he gave an account of the quantity, namely, 1,033 tons, of the value of \$14 a ton, less all the expenses of the transaction and market, and he proposed to enter into a contract with the Dominican government for the purchase of the guano remaining on the island if satisfactory terms could be agreed upon. A prolonged discussion occurred, in which the Dominican government stated its terms, offering to leave them to arbitration if they were found unsatisfactory; the negotiation failed, and Kimball, together with the laborers, returned to the United States.

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#### THE SECRETARY OF STATE'S REPLY.

Mr. Black, Secretary of State, replied to Patterson and Murguiendo on the 14th of January, 1861. Mr. Black acknowledged the receipt of the memorial, referred to its contents, and said in reply thereto

that the government was entirely disposed to protect them (Patterson and Murguiendo) in the enjoyment of any rights which they might have legally acquired to the guano on that island. He added, however, that inasmuch as the Dominican government was understood to claim jurisdiction over Alto Velo—a claim which another applicant was informed in the preceding June might probably be asserted—on account of the position of the island, the Department of State deemed it proper, before taking other steps in the matter, to address a communication to its special agent, Mr. Cazneau, with instructions to ascertain from the Dominican government the grounds on which its claim to the island was based.

#### REFERENCE TO SPECIAL AGENT IN ST. DOMINGO.

The Secretary, Mr. Black, sent a despatch to Mr. Cazneau on the 15th of January, 1861, by which Mr. Cazneau was instructed that he would at once, if he had not already done so, request the attention of the authorities to the transactions of which Patterson and Murguiendo complained, and would learn particularly the grounds upon which those authorities claim jurisdiction of the island, in order that the government of the United States might know what measures were necessary to protect the interests of its citizens in that quarter.

#### SPECIAL AGENT'S REPORT.

Mr. Cazneau's reply to those instructions bears date of the 19th of February, 1861, and was received at the Department of State on the 31st of March, 1861, Mr. Seward having then become Secretary of State. The following is the substance of Mr. Cazneau's report:

"Altavela is a small desert cay, lying, according to some charts, more than five leagues, and, by the map of this island published by order of the government, somewhat less than that distance, to the southward of that 'border belt' which has been completely desolated by the wars between the Dominican and Haytien Republics. Neither government permits the citizens of the other to live on this frontier, and a long margin of the mainland nearest to Altavela cay is a depopulated waste; without settled inhabitants; without cultivation, and, in point of actual fact, without a government.

"The Dominican government claims this depopulated district, because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855, it is defined as *a portion of the province of Azua, together with the adjacent islets, Beata and Altavela, which are there named as dependencies of that province.* Except, however, in the descent of the war schooner Merced on the American guano diggers, last October, I cannot ascertain that the republic has ever exercised the sovereign duties of protection or government on either Beata or Altavela since it has been a nation. In discussing this point with the Minister of Foreign Affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying cays; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

"The neighboring island of Beata has a scant supply of fresh water—of which Altavela is entirely destitute—and it is, therefore, occasionally occupied by the Haytien fishermen; but, so far as I can learn, Dominicans rarely, if ever, venture there.

"The Haytien authorities made a visit of inquiry to the Americans at Altavela, very soon after they commenced work, five months before any Dominican whatever seems to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Con-

gress which protected another company at work on the similarly situated and not distant islet of Nevasa, the Haytien officer withdrew without offering them any molestation.

"The American explorers had, in their repeated visits to the cay, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit within the scope and meaning of the act of Congress of August, 1856, 'to authorize protection to be given to citizens of the United States who may discover deposits of guano.'

"As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican Republic sovereignty over the entire coast opposite, had, after an official visit of inquiry, and with a full knowledge of their tenure of occupation, permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable—as I remarked to the Dominican executive—in supposing themselves in justifiable possession of the cay. If there could be any doubt of the completeness of their right of occupation under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican Republic, which had never given them any intimation of its claims until the very day it sent a military expedition to dislodge them.

"When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Altavela for seven consecutive months steadily at work, investing capital and labor, in opening a crude, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claim now put forth by their government; and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity, uncertain whether they were to regard themselves as prisoners of war—though in a time of profound peace between their respective nations—or men to be tried as criminals, for some nameless and unexplained culpability. To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Altavela."

#### PROCEEDINGS SUSPENDED.

Mr. Black, as attorney for Patterson and Murguiendo, frequently solicited the attention of the Secretary of State to their claim during the years 1861, '62, '63, '64, and '65. By direction of the President, Mr. Lincoln, the Secretary declined to give that attention, on the ground that a portion of the United States being in rebellion, Spain at the same time waging a war of invasion and conquest against the Republic of St. Domingo, and the Republic of Mexico being a theatre of European armed intervention, the time was unpropitious to prosecute the claim of Patterson and Murguiendo, however just it might be.

#### PROCEEDINGS IN 1866.

Appendix No. 39 In January, 1866, Mr. Black, attorney for Patterson and Mur-  
and 40. guiendo, filed a bond conforming to the direction of the guano island law.

#### PROCEEDINGS SUSPENDED DURING NEGOTIATION FOR SAMANA.

The Republic of San Domingo, having expelled the Spanish intruders, was re-organized under the provisional administration of President Buenaventura Baer. That government was recognized by the President of the United States in his



annual message of 1865, and political relations were then for the first time formally established between the United States and the republic of San Domingo. The administration of President Baez suddenly fell, however, before an insurrection in the year 1865; but the republic was again reorganized with a new constitution, and with General Cabral as provisional president. This government seemed to be established with considerable firmness in the summer of 1866. On the 18th of October in that year the government of San Domingo, confiding in the friendship of the United States, made a representation to the Secretary of State that war was existing between Spain and the allied republics of Peru, Chili, Bolivia, and Ecuador. The Dominican government represented that it desired to maintain neutrality, but that it was exposed to violations of its sovereignty by the belligerents, which it would not have the ability to repress, and appealed to the United States for guarantees of protection. In a subsequent note of the 8th of November, that government requested a loan of money. Under these circumstances the United States opened a negotiation in the month of January, 1867, with the Dominican government, concerning a cession of the Peninsula of Samana for an equivalent of money and arms, which, being attended by the moral influence of the United States, it was believed would enable the Dominican government to maintain its independence. This negotiation failed during the summer of 1867. While it continued, and while hopes were entertained of its success, the Department of State, on the ground of inexpediency, declined the urgent appeals of the claimants Patterson and Murguiendo, by their attorney, Mr. Black, to take any proceedings upon their claim to the island of Alto Velo.

#### REFERENCE OF CLAIM TO EXAMINER OF CLAIMS.

The special reasons for delay, before set forth, having ceased, the Secretary of State, in the month of June last, referred the claim of Patterson and Murguiendo for examination to the Bureau of Claims.

#### ADVERSE REPORT OF EXAMINER.

On the 17th of June, 1867, the Examiner of Claims submitted a report. The Examiner's opinion upon the case was, in substance, that the papers submitted were not conclusive upon the point that the island of Alto Velo, at the time of the taking possession thereof by Patterson and Murguiendo, was not within the lawful jurisdiction of any other government; that the oath of the claimants upon that point was expressed in the way of recital and introduction, and did not establish the important fact required. The Examiner further showed that the oath of the claimants to that effect was not adequately sustained by the statements of Captain Kimball and Captain Miller, who were alleged to have discovered the island. The Examiner dwelt upon the statement of Captain Miller that the Haytiens had been for years the sole occupants of the island of Beata, which is adjacent to Alto Velo. He dwelt also upon the fact that Captain Kimball stated in his deposition that he knew the island of Alto Velo was not claimed exclusively by either of the governments, to wit, Hayti or San Domingo, as he knew it to have been used by the citizens of both for many years as a fishing station. The Examiner insisted that the act of Congress requires that the claimants shall conclusively negative any lawful foreign jurisdiction as a condition of the taking possession of an island upon the ground of the discovery of guano thereupon. He insisted that such jurisdiction may exist in a foreign government, though actual possession may not have been taken; or, if taken, may not have been maintained, as is usually required to be established to maintain the claim of private property under municipal law; reciting a judicial decision of Lord Stowell, in which that great judge showed how fallacious would be an attempt to deprive the United States of islands in the open sea, off the mouth of the Mississippi, upon the ground that they were



desert, uninhabited, and unoccupied. The Examiner expressed the opinion that the controlling question in regard to jurisdiction over islands situated like that of Alto Velo is this: Are such adjacent islands necessary to the security and protection of the main land, so that their occupation by a hostile power would be dangerous? The Examiner further insisted that the principle which constitutes the basis of the law is that a nation which possesses the mainland has a maritime jurisdiction which extends into the sea to the utmost range of a cannon shot, then understood to be three miles; that the principle of maritime jurisdiction, however, is not limited by the range of cannon shot, but by the extent of exposure to danger by reason of the foreign occupation of adjacent islands. The Examiner introduced, by way of illustration, the island of Nantucket, lying thirty miles outside of the coast of the United States. He asked whether if that island had hitherto remained uninhabited and unoccupied by the government, or any person under its authority, it would be tolerated that a foreign power should seize and occupy it by force. The Examiner further showed that it was unreasonable to infer acquiescence by the Dominican government in the seizure and occupation of the island from the fact that they delayed to give notice of their jurisdiction for a period of seven months.

Upon this very general review of the subject, the Examiner reported that in his opinion the case was not one in which the government of the United States could justly sustain the claimant's demand for damages from the Dominican government.

#### CLAIM DISALLOWED.

The Examiner's report was laid before the President at a meeting of the Heads of Departments on the 18th of July, 1867, and upon the recommendation of the Secretary of State, without being specially read or considered in detail, it was accepted. A memorandum of that proceeding was filed in the Department, and a copy thereof was furnished to Mr. Black. It was understood by the Secretary of State that the Examiner's report and conclusions would be made known and open to the claimants.

#### PATTERSON AND MURGUIENDO EXCEPT AGAINST THE DECISION.

On the 22d of July, 1867, Mr. Black addressed a letter to the President, in which he discussed the claim. He submitted a brief, and requested the President only to read it, and then do in his judgment what was fit and proper. Mr. Black stated that the injuries of which the parties complained were committed more than seven years ago; that they demanded the intervention of their government immediately afterwards; they however consented not to press the subject at the time, lest it might aggravate the troubles of the country, but that this was with the distinct understanding that the delay should not be charged upon them or allowed to affect their rights. Mr. Black stated that since the war (of the rebellion) the Department of State exhibited so strong an inclination to do nothing, that the sufferers were compelled at last to think of looking elsewhere for a remedy. He averred that the wrong which they had suffered is so grievous, its illegality is so palpable, and the faith of the United States is so solemnly pledged to restore their property to Patterson and Murguiendo, that their final success in the pursuit of justice could hardly be doubted; that the Department of State had given no reason for its inactivity; that they could only wonder what it meant. Mr. Black averred that Patterson and Murguiendo had embarked their all in their enterprise; it was an enterprise not only lawful but laudable; that they went into it under a solemn promise of protection; that they were shamefully robbed by men who had no color of right, and who acted without a show of excuse; that they were utterly ruined in their

business and totally broken up. Passing from the wrongs of those individual citizens, Mr. Black insisted that the public and general aspects of the case ought to be considered; and that when the citizens of the United States discover a guano deposit on an uninhabited island, not within the jurisdiction of any other government, and the discoverer takes the proper steps under the act of 1856, such island becomes annexed to the Union, and part of the country; that to expel the American occupant under such circumstances is like any other invasion of our territory; to submit is to acknowledge our inability or our unwillingness to protect our own people; that the insult to our flag is as gross as though it had been forcibly hauled down from the mast of an American ship, and as if the ship had been forcibly appropriated by a band of pirates. Mr. Black insisted that the President would find that all the conditions which were required by the law to create the American title had been met in this case of Patterson and Murguiendo; that Alto Velo is a guano island; that a deposit of guano was discovered by American mariners; that the island was wholly unoccupied; it was not within the lawful jurisdiction of any foreign government, being situated out on the high sea; that it was open to the first taker; it was in fact taken by the claimants; the claimants gave the proper notice to the Department of State, and fulfilled all the other conditions of the law; that they continued in possession seven months with the sanction of their own government, and the tacit consent of all other governments; that after all this they were forcibly detruded, and without a pretence of lawful authority; that the expulsion was an outrage by itself; that the papers show aggravations; that the agents and workmen of the claimants were carried to the island of St. Domingo, and kept in prison for twenty-one days. Mr. Black then proceeded to define the nature of his demand, which was that the President should send a vessel to Alto Velo to put Patterson and Murguiendo into possession of it; that this would be "the short and simple way of dealing with the business;" that negotiation would be out of place until the parties were put *in statu quo*; that repossession under such circumstances is not only required by public law, and in general principle, as the first step, but it is made the duty of the government in the case by an express statute; that the act of 1856 requires the naval force of the United States to be used in such case; that the right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized.

Mr. Black's letter was accompanied by a brief. This brief reviews and reasserts the case of Patterson and Murguiendo; avers their discovery of deposits of guano on Alto Velo; gives its latitude and longitude; asserts that the island lies fifteen or twenty miles beyond the most extreme southern part of the Dominican territory; that when the discovery was made the island was totally barren and desolate, and it had been previously altogether uninhabited and unclaimed by any state, people, or government, and recites their taking possession on the 18th of August, 1856, in the name of the United States; avers that they filed notice in the State Department, and entered into the required bond; avers that the discovery of guano was made by citizens of the United States; reiterates that those discoverers took and kept peaceable possession in the name of the United States; that it was not taken out of the possession of any other government, occupied by the citizens of any other government, or within the lawful jurisdiction of any other government; that it was therefore precisely such an island as the law requires the President to regard as appertaining to the United States, and to protect accordingly; that after the detrusion of the Americans from the island, and while the employés of Messrs. Patterson and Murguiendo were detained as captives at St. Domingo, Captain Kimball published a formal and solemn protest; and recites in detail the substance of that protest. The brief refers to the fact that on the 18th of October, 1860, five days before the act of eviction, Mr. Cazneau, special agent of the United States,

officially advised the United States consul at San Juan, Porto Rico, of the intention of the Dominican government to attack the inhabitants of Alto Velo; that the last-mentioned consul gave thereupon a warning to the United States consul at St. Thomas; that both of those officers regarded the contemplated act as so clearly a deed of naked spoliation that they used their exertions to have an American man-of-war at Alto Velo in time to oppose force with force.

Mr. Black, on the 7th day of August, 1867, again addressed the President. Appendix No. 45. In this paper he refers to the memorandum of the Department of State concerning the island of Alto Velo; notices the fact that the memorandum declares that the President accepted the conclusions of the report made by the Bureau of Claims; protests that if this statement is allowed to pass without notice, it may be used hereafter as evidence that the President concurred in the effort to justify the outrage committed on the owners of the island, and in the refusal or neglect of this government to give them the redress to which they are legally entitled. Mr. Black further remarks upon the memorandum that the "thing," as he calls it, does not purport to be an executive order; that it is not signed or otherwise authenticated; that it is not a record or a part of a record; that it does not appear how, when, or where it was made; that the memorandum represents the President as accepting the conclusions of a report which was not given, and a conclusion of it which was not stated; that if the President had ordered the claim of the owners to be dismissed or to be enforced, and had recorded his judgment either way, it would have been at least intelligible, but that a statement that some unknown internal effect was produced upon his mind under the influence of a report not given, is senseless when produced as evidence of an executive act; that the memorandum does not say what was the subject-matter of the report; it concerned the island of Alto Velo, but it did not discuss the geography, the political jurisdiction, the commercial products of it, nor did it investigate the right of the United States owners; that if it was upon the latter question, did it conclude that the owners might be plundered by foreigners, or that they ought to be protected according to law? Mr. Black proceeds to say that he is aware that the Solicitor of the State Department (Examiner) was engaged for months in getting up a paper on the case; that, by the present nomenclature of the Department, the Solicitor may, for aught he (Mr. Black) knows, be a Bureau of Claims; that he once saw an unfinished report in the Solicitor's hands, but that he had reached no definite conclusion; that if a loose memorandum can commit the President to a report which is not identified or known, it may be tacked to any paper of that description, either before or afterwards; that even the vague and indefinite statement of the memorandum that the President accepted some conclusion of some report concerning the island of Alto Velo is not true in point of fact. Mr. Black brings no charges of wilful falsehood against anybody, nor does he know the nature of the misapprehension which caused the memorandum to be made; but he insists that the fact is not truly stated. His contradiction rests upon these grounds: First, that the memorandum says that the President accepted the conclusion on the 18th of July, but that only one day afterwards, namely, on the 19th, Mr. Black presented his memorial to the President and explained it somewhat at large; that the President had manifestly never heard of it before. Second, that after Mr. Black got this memorandum he told the President of it, and the President said emphatically that it never could have been officially before him so as to make any impression upon his mind. Third, that it is morally impossible that the President, with the facts of the case before him, could have done otherwise than order the restitution of the island to the owners; that the President is wholly incapable of sanctioning, directly or indirectly, a naked robbery like that. Mr. Black further remarks that he forbears to mention some other occurrences connected with this business; that he has said enough to show the President the necessity of his personal intervention to save the just rights of the parties; the

records of the State Department have shown for seven years that the island was uninhabited, unoccupied, lying in the open sea far beyond the territorial waters of Dominica; that Patterson and Murguiendo discovered it as a guano island, took possession, gave notice according to the act of Congress, and kept possession of it for seven months, when their employés and vessels were forcibly driven away and their business broken up.

#### RE-EXAMINATION OF THE CLAIM.

These papers being referred by the President, the Secretary of State proceeded to re-examine the case with the aids which the claimants and their attorney, Mr. Black, afforded.

#### DIPLOMATIC CLAIM INEXPEDIENT.

The political condition of the Republic of St. Domingo has not essentially improved. It is still feeble, destitute of resources and credit, and a theatre of military revolution. A special envoy is now here soliciting financial and moral assistance.

The Secretary of State adheres to the opinion that even if the justice of the claim of Patterson and Murguiendo were clearly and conclusively established, yet it would be inexpedient to urge it by diplomatic representation, under existing circumstances and at the present time.

#### THE CLAIMANTS ACQUIESCE IN THIS DECISION.

It has already appeared that Patterson and Murguiendo now distinctly disclaim any expectation or desire that the Executive of the United States shall apply to the Republic of St. Domingo for indemnity, or any other form of redress sounding in damages in their behalf.

#### CASE OF PATTERSON AND MURGUIENDO UPON ITS MERITS.

This conclusion, however, will not prevent the Secretary from considering the merits of the claim; but, insomuch as diplomatic proceedings are now out of the question, we must first inquire what form of remedy, if any, remains within the constitutional sphere of the Executive Department for the injuries of Patterson and Murguiendo if their claim shall be approved. There is no misunderstanding of the claimants upon this point. As citizens of the United States, they distinctly inform us that the island of Alto Velo is now in a possession and occupation adverse to their claim. What they now insist upon is that the President send an armed naval force to Alto Velo to eject the present occupants, and to put Patterson and Murguiendo, citizens of the United States, into possession of the island. "This," their attorney says, "is the short and simple way of dealing with the business; negotiations will be out of place until the parties are *in statu quo*."

#### ADVERSE POSSESSION.

Who are the adverse occupants of Alto Velo? We learn from official correspondence of the Department, which now for the first time arrests attention.

On the 19th of February, 1866, twenty-five days after Patterson and Murguiendo filed their bond, Henry G. Root, of New York, addressed  
 Appendix No. 46. a letter to the Secretary of State, in which he asked to be informed what action, if any, was taken in a matter that was brought to the notice of the government some five or six years before, "regarding," as he expressed himself, "our right to work and remove guano from the island of Alta Vela." Mr. Root stated that St. Domingo laid some claim to the guano found there originally by an American captain, under the auspices of a Baltimore, Maryland, house, which claim of St. Domingo was contested by such house, and finally, as he (Mr. Root) believed, was referred to the Department of State for adjudication, and

was in abeyance, after some diplomatic correspondence had taken place on the subject between the two countries, at the breaking out of the rebellion. Mr. Root assigned reasons for making those inquiries, namely, his understanding that the island had not been worked for some years, and, its deposit being peculiarly rich, he (Mr. Root) purposed to send one or more vessels there to bring home cargoes of said guano deposit if he could have the assurance of his right to it, and of government protection in the prosecution of the work. He stated that he had not made himself familiar with the pre-emption right, if any, of nations to discoverers of guano deposits, but he believed that the flag that discovers has the right to it exclusively.

Appendix No. 47. The Secretary of State replied to Mr. Root on the 21st February. The Secretary informed Mr. Root in substance that there already were two parties claiming rights as discoverers of Alto Velo, and that the right is denied by St. Domingo, whose authorities ejected them, (the discoverers;) that the claim of the discoverers at the State Department, referred to by Mr. Root, was made for damages covering the whole value of the guano on the island, and that it was still under consideration; that if either of the discoverers should satisfy this government that his claim is just, and if this government should require indemnity from St. Domingo, that republic would seem, by making payment, to acquire a right to retain the guano if it did not originally possess it; that under these circumstances the Secretary could not encourage any citizens of the United States in resorting to the island unless they should obtain the consent of the authorities of St. Domingo; and as Alto Velo lies opposite to the boundary understood to be in dispute between that power and Hayti, it would be a reasonable precaution to seek the consent of Hayti also.

After the Examiner's report had been made and adopted, as before mentioned, Thomas R. Webster & Co., of New York, wrote to the Secretary of State a letter, on the 12th of September, 1867, in substance as follows: Appendix No. 48. That they had noticed a paragraph in the morning newspaper relative to a claim before the State Department of a Baltimore firm, against the government of St. Domingo for having expelled them from the island of Alto Velo. The writers proceeded to state, inaccurately and untruly, that in a letter written on the 26th of February, 1866, [21st of February,] in reply to a letter from H. J. Root, the Secretary wrote that it would be advisable for him to apply to the government of St. Domingo for the right to remove guano from Alto Velo. They then proceeded to say that last year they [Thomas R. Webster & Co.] obtained consent of the government of St. Domingo, and under date of April 24, 1867, informed the Secretary of State of that fact. [No such letter as thus referred to is now found in the State Department.] Thomas R. Webster & Co. then proceed to say that they have already expended upwards of fifty thousand dollars in their enterprise, and have a large force of men at work; that many cargoes have already arrived at northern ports, and they are developing the resources of the island as rapidly as good judgment dictates. They added that they had done this feeling satisfied that their government would acknowledge their right, particularly after having informed them how to obtain it.

Appendix No. 49. To this letter the Secretary of State replied on the 14th of September, correcting T. R. Webster & Co.'s misconstruction and misstatements of his letter of the 21st of February, 1866, and adding that the design and effect of his letter of the 21st of February were to warn all persons to whose knowledge that letter might come that they would deal with the subject at their peril; and that they would acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing; that the rights of those claimants had not yet been determined; that if the claimants (meaning Patterson and Murguiendo, or Kendall) should be found to have acquired the exclusive right to dig guano, under the law regulating the subject, the subsequent grant to Webster & Co. by the Dominican government would



not affect it; and this government would be under no obligation to aid them in enforcing, as against a foreign state, any rights which might flow from a contract with that state, into which they (Webster & Co.) had voluntarily entered.

Thus it was ascertained that Thomas R. Webster & Co., citizens of the United States, are now actually in possession and occupation of the island of Alto Velo, adversely to Patterson and Murguiendo, other citizens of the United States, and that the former are peaceably engaged, under the authority of the government of St. Domingo, in removing whatever guano remains on the island. The forcible intervention which the claimants solicit necessarily involves an executive decision that the claim of Patterson and Murguiendo is superior in law to the claim of Thomas R. Webster & Co. The conflict is between citizens of the United States. It arises under the laws of the United States and the laws of nations. The contending parties are amenable not to the Executive Department but to the legal tribunals of the United States, and those tribunals are expressly invested with jurisdiction to decide the controversy, and clothed with ample authority to carry their judgment into execution. Under these circumstances, it would be presumptuous on the part of the Secretary of State to recommend the employment of armed force by the President to determine a purely legal controversy. If it shall be insisted, on the other hand, that the Republic of St. Domingo is the responsible party, and not Thomas R. Webster & Co., the Secretary of State must answer that the controversy is only incidentally a national one, while really it involves nothing more than a pecuniary question of lawful right between contending citizens of the United States; that the courts of law are competent and obliged, on due application, to investigate and decide it, while the question whether the Executive Department shall intervene is one which the Constitution and laws refer to the discretion of the President, and that discretion is to be exercised with a principal view not to the interests of individual citizens, but to the rights, interests, and honor of the United States.

Nevertheless, the Secretary will proceed in his examination of the subject, upon the supposition that this difficulty of conflicting claims of Patterson and Murguiendo and Thomas R. Webster & Co. has been overcome and removed. It seems quite clear that the Executive Department could not lawfully have instituted any proceedings whatever for the relief of the claimants until after they had filed the bond prescribed by law. Their bond bears date of March 13, 1861, but it was not presented to the Department and filed therein until the 25th of January, 1866. The eviction of Patterson and Murguiendo from the island of Alto Velo, or their "detrusion," as they call that proceeding, occurred and was complete not only before the day when they filed their bond, but even before the day on which it purports to have been executed. The Secretary might be unwilling to insist peremptorily on this position, but he thinks it his duty to stand upon it until a different construction of the act shall be pronounced by the courts or declared by Congress.

The question remains whether when Patterson and Murguiendo took peaceable possession of Alto Velo that island was not in the lawful jurisdiction of some foreign country.

The Secretary of State will not, in the first instance, go backward beyond the political era of the Republic of St. Domingo. That Republic declared and achieved its independence from the Republic of Hayti on the 27th of February, 1844. It was subsequently recognized by Great Britain and France and other nations, as well as the republic of Hayti, and is now recognized by and holds treaty relations with the United States. It adopted and proclaimed a national constitution on the 18th day of November, 1844. What the constitution declared in regard to territory is, that the ancient Spanish part of the island of St. Domingo, with the "adjacent islands," form the territory of the Dominican Republic; that the boundaries of the Dominican Republic are the same which divided the Spanish part of the island from the French part, as fixed in the year



1793; that the territory of the republic is divided into five provinces, Compostela de Azua, Santo Domingo, Santa Cruz del Seybo, La Concepcion de la Vega, and Santiago de los Caballeros; that these provinces shall be divided into communes, whose number and distribution shall be regulated by law, and that the city of St. Domingo shall be the capital of the republic.

It has been already seen, by the report of Mr. Cazneau, that the islands of Beata and Alto Velo were, by a law of the Republic of St. Domingo passed in 1855, named and described as dependencies of the province of Azua.

The laws of the Dominican republic on the subject referred to are two—one passed in 1844, the other in 1854.

*Extract from the law of 1844.*

“ARTICLE 2. The province of Compostela de Azua is divided into nine communes, namely, Azua, (the capital of the province,) Neyba, San Juan, Hinch, Las Matas de Farfan, Banica, Caobas, S. Rafael, and S. Miguel. The military station of Baraona will be attached to the commune of Azua, as the nearest, and Petitru to that of Neyba. The adjacent islands depending on this province are Beata and Alta Vela.”—(Appendix No. 52.)

*Extract from the law of 1854.*

“ARTICLE 4. The province of Compostela de Azua is divided into the following communes: Azua, (capital of the province,) Neyba, San Juan, Las Matas, Banica, Hinch, San Rafael, San Miguel, and Caobas. The military post of Barahona will depend upon the commune of Neyba. The adjacent islands depending on this province are Beata and Alta Vela.”—Appendix No. 53.

A treaty of peace between France and Spain was concluded at Aranjuez on the 3d of June, 1777. It is historically known that the French and Spanish provinces in the island of Hayti acquiesced in that boundary line which has always been understood to have been established in that treaty, which boundary is the same with the boundary of 1793, referred to and adopted, as before mentioned, in the constitution of 1844 of the Republic of St. Domingo. The present constitution of the Republic of St. Domingo was adopted on the 26th of September, 1866, in the twenty-third year of the independence, and in the fourth year of the restoration of that republic after its violent overthrow by Spain. The constitution declares that the republic embraces all that has been before known as constituting the territory of the republic, namely, the Spanish part of St. Domingo and its adjacent islands; it declares that the boundary line which separates its territory from Hayti is the same as agreed upon between France and Spain, in the treaty of Aranjuez, on the 3d of June, 1777. The several divisions are continued as in the constitution of 1844, including the province of Azua.

The boundary line thus fixed in 1777, between the French and Spanish provinces and republics, has been delineated on every known map of the island of Hayti since the year 1777. It begins at the river Dajabon, in Mancenilla bay, on the north coast of Hayti, and is accurately marked by monuments along the courses of rivers, and mountain summits across the whole island to the mouth of the river Pedernales, or Des Anses-à-Pitre, on the southern coast. The boundary line nowhere approaches the island of Beata nearer than thirty-four miles, or the island of Alto Velo nearer than thirty miles.

The claim of jurisdiction over Alto Velo thus made by the Republic of St. Domingo in its constitution and laws seems to bear the test of geographical inquiry.

REPORT OF THE UNITED STATES COAST SURVEY.

“*Description.*—The mountains of Bauruco lie near the middle of the southern coast of the island of Hayti. They rise to a height of 2,400 feet, and terminate at Beata Point, or Little Cape Mongon, the southern extreme of Hayti.”

*Beata island.*—The north point of Beata island bears west by north four miles from Beata Point. It is about five miles long, from north to south, two miles broad, mostly covered with brushwood, and from fifty to eighty feet high. The southern part is the most elevated; the north end terminates in a long, low point, and not far from it there is a solitary hut. The west side trends about north by east half east, and is bold and steep-to. Off some parts of this side there is no bottom with 136 fathoms of line, at three-quarters of a mile from the shore; and off others a depth of 20 fathoms, nearly a mile distant. From the southwest point a ledge stretches off some distance in that direction, and there are only four fathoms at three cables' length off. The east side is very steep, but the north and northeast sides are connected to Beata Point by a shallow white bank, on which the greatest depth is reported to be three fathoms. North by east of the island there is a breaker. Good anchorage will be found in from seven to nine fathoms water at about half a mile from the western shore of the island. This anchorage is exposed to the west, but the trade wind here invariably blows home."

*Alto Velo.*—Alto Velo lies southwest half west  $6\frac{1}{2}$  miles from the southwest part of Beata, and about 15 miles from Beata Point. It is three-quarters of a mile long in a northeast by east and southwest by west direction, and half a mile wide, and is almost entirely composed of a remarkable bell-shaped hill, the summit of which is 500 feet above the sea. At three-quarters of a mile from the north side there is a small, low, flat, black rock, and a coral bank of soundings, varying from 15 to 18 fathoms, stretches off a mile from the southeast side. Vessels bound either east or west will find the hill a most valuable point of departure. The position of Alto Velo was accurately determined by Captain R. Owen, R. N., who places the summit of the hill in latitude  $17^{\circ} 28' 50''$  north, and longitude  $71^{\circ} 39' 44''$  west."

"Los Frailes, or Friars' Rock, lies north by west three-quarters west,  $9\frac{1}{2}$  miles from Alto Velo; west 10 miles from the north end of Beata. It is about half a cable in extent, and thirty feet high, and at the distance has the appearance of a cluster of sharp-peaked, rugged rocks, with white tops, (the effect of birds' dung;) hence the name."

"The channel between Alto Velo and Beata is quite clear; but it will be prudent to keep outside all. The channel between Beata and Beata Point is navigable for steamers, but they must be of light draught, for, as we have said above, there is a depth of only three fathoms, and the swell is generally very heavy." (See Plate No. I.)

It is thus seen that Beata island is distant only four miles from Beata Point, and that Alto Velo, instead of being 20, or 15, or 10 miles beyond the extreme southern point of Dominican territory, as the claimants contend, or five leagues, as supposed by Mr. Cazneau in his report, is in fact only 15 miles from Cape Beata, and only  $6\frac{1}{2}$  miles from the southwest part of Beata island. Alto Velo, being 500 feet high, is in full view, not only from the island of Beata, but even from Beata Point. The distance from the island of Beata to Alto Velo being  $6\frac{1}{2}$  miles, exceeds by only 1,040 yards the modern range of cannon shot. It is worthy of remark, also, that although the channel between the island of Beata and Alto Velo is quite clear, yet it is so imperfect that it is deemed prudent by navigators to keep entirely outside of both. The depopulation and desolation of the province of Azua, which have occurred in the frequent wars between the States of Hayti and St. Domingo, may indeed have extended over that part of the province of Azua which lies nearest the boundary line; but those wars, nevertheless, were not waged for a contested boundary, but were national wars on the part of Hayti for conquest—on the part of St. Domingo for self-defence and independence. The Secretary does not think that the suspension or absence of lawful authority, or of *de facto* occupation by the Republic of St. Domingo, affects the question. Sovereign States, whether insular or continental, acquire territory

by discovery, by purchase, by conquest, or by voluntary annexation. Occupation or demonstration of power *de facto* in every minute part of a country is not necessary to establish or maintain a title which has been lawfully acquired by any of the processes named. When territory has been so acquired it devolves upon new claimants to show that it has been distinctly conquered and held adversely, surrendered, abandoned, or conveyed. It is only upon this principle that the United States at present retain a long range of islands which extend through 45 degrees of latitude in the Pacific ocean, not to speak of many reefs, keys, and islands in the Atlantic ocean.

In Playfair's Geography, vol. 6, page 624, we read: "Near the coast of St. Domingo are several islands, of which the following are most considerable." After enumerating and particularly describing Tortugo as having been always unsettled and unoccupied, Gonaive as occupied, and Navazza as desert, and Cow's island as uninhabited and frequented by pirates, and also the island St. Louis, he comes to Beata, which the author describes thus: "La Beata is an island opposite to Cape Mongon, [Cape Beata.] It is nearly two leagues and a half from east to west, one league wide, and three-fourths of a league from land. The soil is good, and was once in a state of cultivation. Till the fall of St. Domingo it was the great resort of French privateers."

In Alcedo's Geographical and Historical Dictionary of America and the West Indies we find this account of the city and province of Azua: "Azua or Axuca, a town of the island and government of St. Domingo, settled by the Adelantado Velazquez in 1504. It was called Compostela, from the Comendador Gallego, who had here an inheritance. This name, however, it afterwards lost, and took that of Azua, which it held in the time of the Indians. It is very fertile in sugar-canes, from which much sugar is made. In this district are also some mines of gold, which were formerly worked, but are at present abandoned. It has a very good port on the south sea, and is twenty-four leagues from the capital of St. Domingo." The author also refers to Beata: "Cape Beata, a point of the island of St. Domingo, on the south coast, and running a great way into the sea. It is eighty-five leagues from the city of St. Domingo, longitude  $71^{\circ} 18'$ , latitude  $17^{\circ} 42'$ . Beata, a small island close to the south coast of the island of St. Domingo, and opposite the point of its name."

In the Histoire d'Haiti, vol. 1, page 268, Madion tells us that during the French occupation of the Spanish part of the island of St. Domingo, the island of Beata was made into a canton, and that as such canton it had the boundaries of the ancient province or quartier; and that the island of Beata, as such canton, was attached for purposes of criminal jurisdiction to the canton of Neybe.

The discovery of guano on the island of Alto Velo, although one of the fundamental conditions for moving the government of the United States to secure temporary possession of the island, can have no effect to disturb the lawful rights of the Republic of St. Domingo. That republic, if it had lawful jurisdiction over the island of Alto Velo, could not lose it by failing to appropriate, or even by failing to discover, deposits of guano. Indeed, it is only the commerce in guano that is modern. The article itself was found in Peru and adjacent islands in use as a fertilizer when these regions were conquered by Pizarro. Guano came into use as an article of commerce in 1839. Certainly the United States do not forfeit by non-use the coal, iron, copper, and gold which are reported as being so profusely distributed throughout the islands and main land of Alaska.

The title of St. Domingo to the island of Alto Velo has been found by the Secretary of State to bear the test of historical research. Christopher Columbus, on the 17th of April, 1492, stipulated certain terms with the King and Queen of Spain concerning the hoped-for fruits of the great enterprise which he had projected: First, that he should have, with perpetual succession, the office of admiral in all *islands and continents* which he might discover or acquire on the ocean; second, that he should be viceroy and governor general, under these

monarchs, of all said islands and continents; third, he reserved to himself one-tenth, deducting expenses, of all pearls, precious stones, gold, silver, spices, and all other articles and merchandise, in whatever manner found, bought, bartered, or gained within his admiralty; fourth, he was to have sole jurisdiction, subordinate to the government of Spain, in all causes and disputes arising out of traffic between the countries to be discovered and Spain; fifth, the right to contribute an eighth part of the expenses—which contribution he made. These stipulations are still in existence, bearing the signatures of Ferdinand and Isabella, (*Navarrete*, vol. 2, p. 7; *Irving's Columbus*, vol. 3, p. 114.) It was in pursuance of this contract that Columbus took formal possession of St. Salvador, his first discovery in the West Indies, on the 12th of October, 1492. It was in pursuance of that same contract that he afterwards took possession of the island of Cuba in the name of his sovereign, and it was in pursuance of the same contract that he afterwards entered the harbor on the west end of the island of Hayti, on the 6th of December, 1492, and named it St. Nicholas. In pursuance of the same contract, he raised a cross on the 12th of December, which cross is still seen in the cathedral of St. Domingo. In pursuance of the same contract he built a fort, La Navidad, on the 4th of January, 1493, and founded a city of that name. While executing the same contract, he afterwards discovered and named the promontory of Monte Christo, the Rio del Ora, or Santiago, and the Golfo de las Flechas, now known as the Gulf of Samana. When Columbus, returning from his first voyage, arrived at Valparaiso, and related his discoveries to the King of Portugal, that King set up a pretence that, by virtue of an existing papal bull, and of previous capitulations between the sovereigns of Castile and Portugal, the islands and continents which Columbus had thus discovered would of right inure to Portugal, and the King accordingly set on foot an expedition to seize and occupy them. (*Irving's Columbus*, vol. 3, p. 257.) Having arrived at Palos, in Spain, Columbus despatched a letter to his sovereigns announcing his discoveries. The letter was acknowledged by a reply addressed to him with the title of "Don Christopher Columbus, our admiral of the ocean sea, and viceroy, and governor of the islands discovered in the Indies." On going to Barcelona, in April, 1493, Columbus gave his sovereigns a minute account of his voyages, and a description of the islands he had discovered. He displayed specimens of their animal, vegetable, and mineral productions, and exhibited natives of the newly discovered countries. He pronounced all these mere harbingers of greater discoveries yet to be made, which would add realms of incalculable wealth to the dominion of their Majesties, and whole millions of proselytes to the true faith. They assigned to him a coat of arms, in which the castle and lion were quartered with his proper bearings, which were a group of islands surrounded by waves, with the motto, "Columbus gave a new world to Castile and Leon." (*Irving's Columbus*, vol. 3, pp. 268, 274.)

The conflicting pretensions of Spain and Portugal to the regions discovered by Columbus were referred by them to Pope Alexander VI, who issued a bull in which he drew a line of demarcation between the territories of Spain and Portugal, namely, an ideal line drawn from the north to the south pole, one hundred leagues to the west of the Azores and the Cape de Verd islands. All land discovered by the Spanish navigators to the west of the line which had not been taken possession of by any power before the previous Christmas, was to belong to the Spanish crown. This line was, on the 7th of June, 1494, by capitulation between the Kings of Spain and Portugal, moved to 370 leagues west of the Cape de Verd islands. So promptly and so decidedly was settled the greatest question of title and boundary which the world has ever known. (*Irving's Columbus*, vol. 3, page 300.)

Under this papal bull the Spanish monarch hastened to prepare for new and further discoveries. He established an office of Indian affairs and custom-house at Seville, with a corresponding office in St. Domingo; and the Crown assumed



all the expenses of the colony of St. Domingo, and was to receive all the emoluments. Thus provided, besides being intrusted with the royal seals, and authority to use the name of their Majesties in letters patent and commissions within the boundaries of his jurisdiction, Columbus proceeded on his second voyage. On his way out he discovered and took possession of the islands of Dominica, Guadaloupe, Antigua, St. Martin, Porto Rico, and others of the Caribbean islands. He arrived at his former harbor and city of La Navidad on the 27th of November, 1493. His fortress was demolished, but he promptly repaired it, founded the city of Isabella, and distributed military forces throughout the island.

After these proceedings he visited Cuba and Dominica, and returning from the latter island to Hayti, he saw on the 20th of August, 1494, and gave name to Cape San Miguel, now known as Cape Tiburon, the southern part of the island of Hayti. Here the natives recognized and saluted him by his title of admiral. At the end of that month, according to the account which he rendered to his sovereign, he anchored at a small island, or rather a rock, which rises singly out of the sea opposite to a long cape stretching southward from the centre of the island, to which promontory he gave the name of Cape Beata. The rock at which he anchored had an appearance, at a distance, of a tall ship under sail, from which circumstance the admiral called it Alto Velo. Several seamen were ordered to climb to the top of the island, which commanded a great extent of ocean, and there to look out for the two ships which had parted from the admiral during his voyage. Descending from the summit the sailors killed on the island of Alto Velo eight sea wolves, which were sleeping on the sands, knocked down many pigeons and other birds with sticks, and took others with their hands; for in this unfrequented island the animals seemed to have none of the wildness and timidity which is produced by the hostility of man. (Irving's Columbus, vol. 3, page 434.) Columbus remained at this anchorage of Alto Velo six days, (Churchill's Voyages, vol. 2, page 539; Herrera, Decad 1, liber 2, chap. 15;) and having then been joined by the two missing caravels, he coasted along the southeastern part of the island, passing the country watered by a branch of the Neyva. This country was a fertile plain, filled with hamlets and detached houses so close together that for the space of a league it was a continuous village. (Hist. San Domingo, by San Antonio del Monte y Tejada, Havana, 1853, page 336.)

Columbus began his third voyage on the 30th of May, 1498. After having made large discoveries on terra firma, or the mainland, of South America, he returned to the island of Hayti for repose and health. On the 20th of August he arrived at his former anchorage under the little island of Beata, and from that place he communicated with his brother, who was then exercising, by deputation, the authority of viceroy over the island of Hayti. Certainly Columbus could not have entertained a doubt of the title of Spain to any of the islands which he discovered.

In his last will and testament he wrote as follows:

"In the name of the most Holy Trinity, who inspired me with the idea, and afterwards made it perfectly clear to me that I could navigate and go to the Indies from Spain by traversing the ocean westwardly, which I communicated to the King, Don Ferdinand, and to the Queen, Donna Isabella, our sovereigns; and they were pleased to furnish me the necessary equipment of men and ships, and to make me their admiral over the said ocean in all parts lying to the west of an imaginary line drawn from pole to pole, a hundred leagues west of the Cape de Verd and Azore islands; also appointing me their viceroy and governor over all continents and islands that I might discover beyond the said line westwardly, with the right of being succeeded in the said offices by my eldest son and his heirs forever, and a grant of the tenth part of all things found in the said jurisdiction, and of all rents and revenues arising from it, and the eighth of all the

lands and everything else, together with the salary corresponding to my rank of admiral, viceroy, governor, and all other emoluments accruing thereto, as is more fully expressed in the title and agreement sanctioned by their highnesses.

"And it pleased the Lord Almighty that in the year one thousand four hundred and ninety-two I should discover the continent of the Indies and many islands, among them Hispaniola, which the Indians call Ayte, and the Monicongos, Cipango. I then returned to Castile to their highnesses, who approved of my undertaking a second enterprise for further discoveries and settlements; and the Lord gave me victory over the island of Hispaniola, which extends six hundred leagues, and I conquered it and made it tributary; and I discovered many islands inhabited by cannibals, and seven hundred to the west of Hispaniola, among which is Jamaica, which we call Santiago; and three hundred and thirty-three leagues of continent from south to west, besides a hundred and seven to the north which I discovered in my first voyage, together with many islands, as may more clearly be seen by my letters, memorials, and maritime charts. And as we hope in God that before long a good and great revenue will be derived from the above islands and continent, of which, for the reasons aforesaid, belongs to me the tenth and the eighth, with the salaries and emoluments specified above, and considering that we are mortal, and that it is proper for every one to settle his affairs and to leave declared to his heirs and successors the property he possesses or may have a right to, wherefore I have concluded to create an entailed estate (*mayorazgo*) out of the said eighth of the lands, places, and revenues in the manner which I now proceed to state." (Irving's *Columbus*, vol. 5, p. 444.)

The *Historia de Santo Domingo*, by Don Antonio del Monte y Tejado, published in Havana in the year 1853, contains Columbus's original account of his discoveries in that island, and is illustrated by a chart which seems to have been copied from the original charts of Columbus himself. On this chart appears the island of Alto Velo, undistinguishable (probably by reason of the smallness of the scale) from the main land. (See Plate No. II.)

In Churchill's *Voyages and Travels*, published in London, 1744, the author gives this account of the discovery of Alto Velo:

"On Saturday, the 23d, a cacique came to the ships crying *almirante, almirante*; that is, admiral, admiral; whence he inferred that must be the point of Hispaniola, for till then he knew it not. At the end of August he anchored at a small island, which looked like a sail, because it is high, and called it Alto Velo, being twelve leagues from La Beata. The other two ships being out of sight, he caused some men to go up to the top of the island to discover them, and the seamen killed five seals that lay asleep on the sands, knocked down many birds with staves, and took some with their hands, for that part not being inhabited, they fled not from them. After six days the other ships came up; they proceeded to the island La Beata, which is small, and thence coasted along Hispaniola to a river, on which lies a curious plain very populous, now called De Catalina; that is, Catharine's, from a lady it belonged to." The same account of the discovery of Alto Velo and Beata is given by Churchill in the chapter entitled "The Discovery of the West Indies by Christopher Columbus, together with his life and actions."

In a map which accompanies M. L. E. Moreau de Saint Méry's *Description, Topographical, Natural, Civil, Political, and Historical, of the French part of the Island of St. Domingo*, published in Philadelphia 1797, there are laid down, on the southern coast of Hayti, Cape La Beata, the island La Beata, the island Alto Velo, and two islands called Los Frailes; and the boundary between the French part and the Spanish part of St. Domingo is distinctly traced from the mouth of the river Pedernales, on the south, to the bay of Mancenilla, on the north, as it has been heretofore recited. (See Plate No. III.)

On a French war map of St. Domingo, made during the revolution for independence in Hayti, the demarcation line as fixed "between the French and



Spaniards in 1776," is indicated, and Cape Beata, Beata island, and Alto Velo are delineated as falling within the Spanish part, and as included in the province of Azua. Beata island is separated from Cape Beata by a strait five miles wide. This strait is marked as having a depth varying from 24 to 30 feet. Alto Velo is separated from Beata island by a strait a little less than six miles wide, and is fourteen miles distant from Cape Beata. "Good anchorage" is marked off Beata island, only five miles distant from Alto Velo. (See plate No. XVI.)

In Hakluyt's Voyage, vol. 4, page 103, first published in the year 1599, directions are given to the mariner for his voyage from St. Domingo to Nueva Espanna, in these words :

"If you will sayle from St. Domingo, in Hispaniola, to Nueva Espanna, stirre away south-southwest until you come up as farre as the point of Niçao; and from thence stirre away west-southwest, and so you shall finde the Isle of Beata. And if you saile from this point of Niçao for Ocoa you must passe along the coast west and by north untill you come to Puerto Hermoso, or the beautiful haven, which is 18 leagues distant from St. Domingo; and if you proceede from Puerto Hermoso for Nueva Espanna you must stirre away south-southwest untill you looke out for Beata and Alto velo."

He continues to give "markes of the Isle of Beata" :

"Beata is a small island, and not very high; you may passe along the outside thereof, and there is no danger but that you may see; and by and by you shall raise Alto velo; and from thence you must stirre away west and by south to give a birth from the islands called Los Frailes or the Friers. And when you are as farre ahead as the Frailes, then you must stirre away west and by north, and so you shall goe right with Bacoa, and before you come to it you shall see high craggie cliffes, and at the descending of them white paths like great sheetes; these high craggie mountaines are called Las Sierras de Donna Maria. And before you come to the sayde point of Bacoa you shall discover a little lowe island, even with the sea, and full of trees, which is called Isla Baque."

At page 113 of the same book, under what is called "The 2d ruttier for the West Indies," are given "the latitudes of the headlandes, capes, and islands, as well of Madera, the Canaries, and the West Indies, and of the Azores, and the Isles of Cabo Verde." In giving the latitudes of the capes of Hispaniola the author puts "the point of the isle of Saona in  $17\frac{1}{2}$ ; the cape called Punta de Niçao, neere S. Domingo, in Hispaniola, in  $17\frac{1}{2}$ ; the isle Beata, on the south side of Hispaniola, in 17; the point of Bacao, on the south side of Hispaniola, in  $17\frac{1}{2}$ ; Cape Tiburon, upon the west part of Hispaniola, and the isle of Nauaza, in  $18\frac{1}{4}$ ."

There is found in the library of the Department of State a copy of an original chart subscribed as follows: "Thomas Hood maide this platte, 1592." Upon this chart the world-dividing line between Spain and Portugal is accurately indicated. Besides most of the other West India islands, the island of Hispaniola is laid down, and its entire coast carefully delineated with bays, headlands, and the point of Beata exhibited, together with the islands of Beata, "Altovelo," and Frailes, as described in the journal of his discoveries by Columbus. (See Plate No. IV.)

An ancient chart by "Visconte de Majolo, of the Antilles and the maiuland of Honduras to the Cape of Santa Maria, in Uruguay," gives the dividing line between Spain and Portugal, and flags bearing respectively the arms of those countries. Most of the West India islands are delineated, among them "Spagnola Isabella." The coast of Hayti is given, with two islands corresponding to the islands of Beata and Alto Velo, but without names. Across the lower part are written the words, "Tota terra inuenta p. Cristofa Colombo Januensis de Re de Spania." (See Plate No. V.)

On another chart, without date, of the same collection, of particular parts of America, the West India islands are given without names, except Cuba and

Bahama and "Spagnola," while Yucatan is marked as an island. Two small islands are found adjacent to "Spagnola," corresponding to Beata and Alto Velo, but are without names. (See Plate No. VI.)

A very ancient chart of the east coast of America, from Hudson's bay to the Straits of Magellan, presents the island of Hayti, with adjacent islands, in the same way. A portion of the chart is given on the accompanying Plate No. VII.

On another ancient chart of the east coast of America, from New Brunswick to the Amazon river, the West India islands are laid down with a fair delineation of the coast of Hayti, under the name of Hespanhol, with an island marked Beata, a second marked Frailes, and an adjacent one, without name, corresponding to Alto Velo. A portion of this chart is shown on Plate No. VIII.

We find also in the Department a copy of Juan de Cosa's map of the world, made in A. D. 1500, which represents the Antillian islands and their vicinity. It was taken from the *fac simile* draught which was made for the Physical, Political, and Natural History of the Island of Cuba, by Don Ramon de la Sagra: Paris, 1837. On this map the island of Hayti appears under the name of La Espanola, with its coasts. On its southern coast is marked C. de Lobo, and adjacent are the names "Beata" and "Altobelo;" but the islands are not marked. (See Plate No. IX.)

On a copy of charts of the important Antilles, as depicted separately by B. Bordone, in different parts of his well known work called Isolario, (a description of all the islands of the world,) which was famous at its time—first edited 1528, then in 1534, and again in 1548—appear the islands of Jamaica, Cuba, Spagnola, Guadalupe, Dominica, Matinna, (probably Martinique.) The city of Isabella, long since extinguished, is presented on the map of Spagnola, and on the southern coast are shown four islands corresponding in location to Beata, Alto Velo, and Los Frailes. All the islands are represented as uncultivated, wild, and full of hills and forests, with the only exception of Hispaniola, which shows many Spanish buildings. (See Plate No. X.)

A copy of a map of Hayti, or Hispaniola, is found in the same collection of the Department, which is contained in the following work: "Libro Primo della Historia, delle Indie occidentale cavate da libri scritti del P. Marted Oviedo: Venezia, 1534." It is the oldest engraved special map of Hispaniola which is known. On this map the coast is delineated; the cities of Indian tribes and Spanish settlements and forts are given; the cities of Isabella and St. Domingo are marked, and on the southern coast is marked C. De Lobos, with four islands corresponding to Beata, Alto Velo, and Los Frailes; but only the name of Beata is given. (See Plate No. XI.)

In the same collection is found a copy of an original map of the island of Hayti, which is contained in the third volume of the celebrated work of Ramusio, "Delle navigationi et viaggi: Venize, 1556." The cities of Isabella, Nativita, St. Dominico, and the province of Azova (Azua) are named. An island is given, marked De Lobos, which is near the main land, now known as Cape Beata, and the adjacent island is marked and named Beata, and two smaller islands, corresponding to Alto Velo and Los Frailes, are indicated. (See Plate No. XII.)

Still another map is found, which is a copy of the original which was made and engraved in the year 1564, by the well-known Italian cartographer, Paulo Forlano. The original bears the inscription: "The island of Spagnola, now called the island of St. Domingo, which is most fertile in many things; for instance, in cotton, gum, aloes, cinamon, ginger and other spices." Off the southern coast is marked Cape de los Bos and eight islands, two of which are named "Beata" and "Alto velo," and all of them are colored as belonging to Espaniola. (See Plate No. XIII.)

In a map of the Antilian islands, drawn by Martines in 1578, the island of Hayti is found under the name of Spagnola, with two islands very close to the shore, one of which is named "Biata" and the other Frailes. Alto Velo does not appear. (See Plate No. XIV.)

A further map appears which was copied from a work entitled "Descripcion de las Indias occidentales de Antonio de Herrera, 1601." The map has the title "Descripcion del Distuco del Audiencia de la Española." The geographer who made this copy remarks in regards to this map as follows: "Though there have been made already before this time (1601) better and more complete maps of the principal West India islands, of Cuba, of Hayti, &c., still this map is remarkable as a general one of all those regions, giving in a pretty full and complete manner all the names of the islands, and of the principal settlements, capes, &c., and showing the positions and relations of all those islands in a very true and correct manner. In the original the name of the Antilles is not to be found on the map. They are called 'Ysias de la mar del Norte,' (the islands of the North sea.) Many of the names appear probably for the first time on an engraved and printed map." The towns of St. Domingo and Azua are given, and the peninsula of Beata is called La Calogia, separated from which appear the islands "Sabeata" and "Altobelo," with other islands corresponding to Los Frailes. (See Plate No. XV.)

We have no evidence that any part of the original Spanish province of St. Domingo was ever alienated by Spain before the Dominican revolution. By that revolution the whole of that dominion inured to St. Domingo. We have seen that the Republic of St. Domingo has ever since claimed the whole of it, including the isle of Alto Velo.

Legislators can seldom expect to foresee all the cases and conditions to which their laws may ultimately be supposed to apply. It can hardly be believed that in passing the guano law of 1856, Congress would have thought it necessary to insert a caution that the discoverer should assign the exact latitude and longitude of guano islands, if they had supposed their law would have been extended over islands that are known as landmarks to every seafaring man, and whose latitude and longitude were accurately set down in geographical maps and mariners' charts a hundred years before civilization commenced in the region now occupied by the United States. As little could Congress have expected that, in determining the national right to occupy such islands, they would come into conflict with a title directly derived from the original discovery and occupation of the West Indies by Columbus.

In the case of the claim of Cayo Verde, the Attorney General of the United States explained the guano act as follows:

"ATTORNEY GENERAL'S OFFICE,  
" December 14, 1859.

"SIR: The papers sent me by you show that W. J. Kendall, of Baltimore, has petitioned to be protected in the possession of a guano island in the Caribbean sea, called Cayo Verde. It also appears that Cayo Verde is regarded by the British government as under the dominion of that power, and belonging to the Bahamas; Lord Lyons having given notice that the removal of guano therefrom, by an American, would be considered not only a trespass, but a hostile aggression.

"Before a citizen of the United States can be entitled to the benefit of the act of 1858, it must appear that the island, rock, or key, upon which he has discovered guano, was not, at the time of its discovery, within the lawful jurisdiction of any other government. In the present case, Cayo Verde is distinctly asserted by the British government to be within its jurisdiction. The President

has no right, under the law, to annex the island to the United States, or to put any American citizen in possession of it, until the diplomatic question raised by the British minister shall be finally settled, and not then unless it be settled in our favor.

"I am, very respectfully, yours, &c.,

"J. S. BLACK.

"Hon. LEWIS CASS,

"*Secretary of State.*"

Upon this review of the facts specially submitted to the Secretary by the claimants, as well as of other geographical, historical and political facts which bear upon the subject, the Secretary of State finds himself unable to recommend the employment of the land and naval forces of the United States for the seizure of the island of Alto Velo.

WILLIAM H. SEWARD.

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SUPPLEMENT.

JANUARY 22, 1868.

A new and distinct claim by the Alta Vela Guano Company was presented to the Secretary of State subsequently to the preparation of the foregoing report. (See Appendix 50 and 51.)

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APPENDIX No. 1.

AN ACT to authorize protection to be given to citizens of the United States who may discover deposits of guano.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That when any citizen or citizens of the United States may have discovered, or shall hereafter discover, a deposit of guano on any island, rock, or key not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof, and occupy the same, said island, rock, or key may, at the discretion of the President of the United States, be considered as appertaining to the United States: *Provided, however,* That notice be given by such discoverer or discoverers, as soon as practicable, to the State Department of the United States, of such discovery, occupation, and possession, verified by affidavit, describing said island, rock, or key, and the latitude and longitude thereof, as near as may be, and showing that such possession was taken in the name of the United States, and that satisfactory evidence be furnished to the State Department that such island, rock, or key was not, at the time of discovery thereof, or the taking possession and occupation thereof by the claimants, in the possession or occupation of any other government or the citizens of any other government.

SEC. 2. *And be it further enacted,* That the said discoverer or discoverers, or his or their assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying said islands, rocks, or keys for the purpose of obtaining said guano and of selling and delivering the same to citizens of the United States, for the purpose of being used therein, and may be

allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding eight dollars per ton for the best quality, or four dollars a ton in its native place of deposit: *Provided, however,* That no guano shall be taken from said island, rock, or key, except for the use of the citizens of the United States, or of persons resident therein, as aforesaid: *And provided, also,* That said discoverer or discoverers, or his or their assigns, shall first enter into bonds, with such penalties or securities as may be required by the President, to deliver the said guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price aforesaid, and to provide all necessary facilities for that purpose within a time to be fixed in said bond, and any breach of the provisions thereof shall be taken and deemed a forfeiture of all rights accruing under and by virtue of this act.

SEC. 3. *And be it further enacted,* That the introduction of guano from such islands, rocks, or keys shall be regulated as in the coasting trade between different parts of the United States, and the same laws shall govern the vessels concerned therein.

SEC. 4. *And be it further enacted,* That nothing in this act contained shall be construed obligatory on the United States to retain possession of the islands, rocks, or keys, as aforesaid, after the guano shall have been removed from the same.

SEC. 5. *And be it further enacted,* That the President of the United States is hereby authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the said discoverer or discoverers, or their assigns, as aforesaid.

SEC. 6. *And be it further enacted,* That, until otherwise provided by law, all acts done and offences or crimes committed on every such island, rocks, or keys, by persons who may land thereon, or in the waters adjacent thereto, shall be held and deemed to have been done or committed on the high seas, on board a merchant ship or vessel belonging to the United States, and be punished according to the laws of the United States relating to such ships or vessels and offences on the high seas, which laws, for the purposes aforesaid, are hereby extended to and over such islands, rocks, or keys.

Approved August 18, 1856.

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## APPENDIX No. 2.

BALTIMORE, *May 14, 1860.*

SIR: I beg leave to say to you that in January last I sent the brig Delta, Captain R. Daulby, from this port in search of guano islands, and on the nineteenth of March last anchored at Alta Vela island, in the Caribbean sea, and discovered upon said island a deposit of guano, and, in the name of the United States, took possession of it, and loaded his vessel, the said brig Delta, and sent her home, Captain Daulby remaining upon the island with two men to work and hold possession of the same. Said island lies out of the jurisdiction of any other government, and uninhabited at the time of discovery.

I have to ask that you will cause the proper entry to be made in my name as the owner and discoverer of said guano deposit.

Respectfully, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS,  
Secretary of State.



## APPENDIX No. 3.

BALTIMORE, *May* 14, 1860.

SIR: We respectfully beg leave to give notice hereby that, in conformity with this act, we have taken possession of the island of Alto Velo, in the Caribbean sea—latitude  $17^{\circ} 28' 11''$ ; longitude  $71^{\circ} 40' 30''$ —and that the same is now in our possession, and occupied by Captain S. R. Kimball and crew of the schooner Boston, and when we get our duplicate letters, the originals of which were sent us through Captain Daulby, of the brig Delta, which, by some unaccountable and unexplained reason, have not as yet come to hand, we will furnish the Department with full particulars and the necessary proofs called for by this act.

Very respectfully,

PATTERSON & MURGUIENDO.

Hon. LEWIS CASS,

*Secretary of State, Washington, D. C.*

N. B.—We would have given this notice to the Department on the 29th of April, 1860, on receipt of our second letter on that day, but waited for the original letters, which contained full particulars.

P. & M.

## APPENDIX No. 4.

BALTIMORE, *June* 5, 1860.

SIR: Enclosed please find a document containing proof of my having discovered a deposit of guano on the Alta Vela, the taking possession of and the location of said island coming, I believe, within the guano act of 1856, August 18.

I ask if you will prescribe the bond for me to sign, as I have a vessel ready to sail for said island, and wish to go properly authorized.

Respectfully, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

## APPENDIX No. 5.

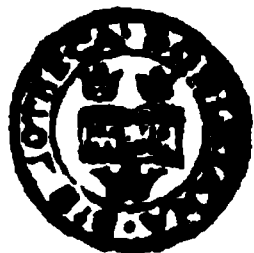
UNITED STATES OF AMERICA, *State of Maryland, &c.*

I, William Gilmore, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known, that on the day of the date hereto before me personally appeared G. W. Goslin, present master of the brig Delta, of Baltimore, and James Gordon and John Pugh, of and belonging to the said brig, who, being by me duly, solemnly, and severally sworn on the Holy Evangelists of Almighty God, did severally depose and say, that on the 28th day of January, 1860, W. T. Kendall fitted out the said brig Delta, and despatched her for the Caribbean sea, in search of deposits of guano undiscovered, and that when sailing from Baltimore Captain Richard Daulby was master and agent for W. T. Kendall; furthermore that on the 19th day of April, 1860, the appearers arrived in said brig Delta at an island called Alta Vela, lying in latitude  $17^{\circ} 30'$ , and longitude  $72^{\circ} 40'$ , about forty miles from the island of St. Domingo, anchored said brig and went on



shore with Captain Richard Daulby, and found a large deposit of guano, at least 15,000 tons. The said island was uninhabited, and bore no traces of having been formerly inhabited, being unclaimed and not occupied. The said Captain Richard Daulby took possession of the island, in company with the appearers, in the name of the United States, and for the benefit of W. T. Kendall. Having raised a flag upon it and built a house, they, these appearers, then loaded the said brig and sent her to Baltimore to W. T. Kendall, in command of G. W. Goslin, one of these appearers, the said Captain Richard Daulby staying on the island, in possession, where he now remains.

The guano has been analyzed and found to contain sixty-six per cent. of bone phosphate of lime, being a merchantable article, and worth in this market fifteen (15) dollars a ton.



GEORGE W. GOSLIN,

JAMES <sup>his</sup> + GARDNOB,

JOHN <sup>his</sup> + PUGH.  
<sub>mark.</sub>

In testimony whereof, the said deponents have hereunto subscribed their names, and I, notary, have hereunto set my hand and affixed my seal notarial, this sixth day of June, in the year of our Lord one thousand eight hundred and sixty.

WILLIAM GILMORE, *Notary Public.*

#### APPENDIX No. 6.

DEPARTMENT OF STATE,  
*Washington, June 7, 1860.*

SIR: I have to acknowledge the receipt of your communication of the 5th instant, and the depositions which accompanied it, relative to the discovery and occupation of Alta Vela island, under the act of Congress of August 18, 1856.

It is proper to inform you that a letter was addressed to this Department on the 14th ultimo, by Patterson & Murguiendo, claiming to have taken possession under that act of Alta Vela island, in latitude 17° 28' 11'', longitude 71° 40' 30'', and that at the date of their letter it was still in their possession, and occupied under their authority by S. R. Kimball and crew, of the schooner Boston.

Under these circumstances, and also since no evidence is furnished by you of the quantity of guano upon that island, no certificate of any respectable chemist as to its quality; and further, as from the name of the island it must have been discovered by Spaniards, and from its position may be claimed as within the jurisdiction of the Dominican Republic, a compliance with your request to prescribe at this time the penalty of the bond is not deemed advisable.

I am, sir, respectfully, your obedient servant,

JOHN APPLETON,  
*Assistant Secretary.*

W. T. KENDALL, Esq., *Baltimore, Maryland.*

#### APPENDIX No. 7.

BALTIMORE, *June 19, 1860.*

SIR: Enclosed please find a copy of analysis of guano made by our State chemist, which you will perceive contains 63 $\frac{18}{100}$  per cent., whereas a standard

article contains 55 per cent. I have also shown there is a very large quantity in the island which lies entirely out of the jurisdiction of Hayti. Again: officers from the island of Hayti came upon the island while in charge of my men, and did not molest them, nor forbid them from taking away the guano, but left them in peaceable possession thereof. You say in your last letter that Patterson and Murguiendo had also laid claim to the discovery; this I am prepared to prove is not the case. One Captain Kimball, sailing for these parties, landed upon the island some ten (10) days after I had raised the American flag, and had dug enough to load my vessel.

I must again ask that you will prescribe the proper bonds for me, and allow me to go and take away the guano by proper authority; every evidence that you need I can promptly furnish you of my right.

I remain, your obedient servant,

W. T. KENDALL.

Hon. LEWIS CASS.

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APPENDIX No. 8.

BALTIMORE, *June* 18, 1860.

Analysis of an average sample of guano left by William T. Kendall, Esq., represented to be from Alta Vela, per brig Delta, May 20, 1860. Said sample contains:

Phosphoric acid.....	29.16
Lime, &c.....	70.84
	<hr/>
	100.00
	<hr/>

29.16 per cent. of phosphoric acid is equal to 63.18 per cent. of bone phos. of lime.

THOS. I. PITT.

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APPENDIX No. 9.

DEPARTMENT OF STATE,

*Washington, D. C., June* 21, 1860.

SIR: In the absence of any further proofs, I can only refer you to the letter from this Department of June 7, and say that any information which you may choose to file in this Department will receive immediate attention.

I am, &c.,

WILLIAM H. TRESCOTT.

W. T. KENDALL, Esq.

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APPENDIX No. 10.

BALTIMORE, *June* 22, 1860.

SIR: Yours of the 21st is at hand, and in reply have to say: I have clearly proved that my agent, Captain Richard Daulby, did, on the 19th of April, 1860, take peaceable possession of the island called Altivela, an uninhabited, desolate place, without the most remote sign of ever having been inhabited; also, upon this island he (Daulby) discovered a large and rich deposit of guano; also, that it lies entirely out of the jurisdiction of Hayti; all of which I have clearly proved to the satisfaction of the Department, which is all that is required under the

guano act of 18th August, 1856. I now have to ask the bonds to be prescribed that I may act authoritatively, and bring said guano to market. Hoping that you will render me what official protection you can in protecting my interest,

I remain, your obedient servant,

W. T. KENDALL

Hon. LEWIS CASS.

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APPENDIX No. 11.

WASHINGTON, D. C., *July* 16, 1860.

SIR: I have the honor to transmit herewith an affidavit of S. R. Kimball, accompanied by a letter from Messrs. Patterson & Murguiendo, of Baltimore, explaining certain facts in connection therewith, and requesting me to cause it to be filed in the State Department. Begging that you will fulfil the object of the communication of Messrs. Patterson & Murguiendo,

I am, yours respectfully,

GEORGE W. BARRY.

Hon. WILLIAM H. TRESPOTT,  
*Acting Secretary of State.*

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APPENDIX No. 12.

UNITED STATES OF AMERICA, *State of Maryland, sc.*

I, William Gilmor, notary public, by letters patent under the great seal of the State of Maryland, commissioned and duly qualified, residing in the city of Baltimore, in the State aforesaid, do hereby certify, attest, and make known that, on the date of the day hereof, before me personally appeared Samuel R. Kimball, master mariner, who being by me duly and solemnly sworn on the Holy Evangelists of Almighty God, did depose and say that, on the twenty-third day of February, eighteen hundred and sixty, he then in command of the schooner Boston, of Baltimore, owned by Messrs. Patterson & Murguiendo, of said place and for whom he was acting as agent, he took possession of the island of Alta Vela in the name of the United States, in the presence of — Miller, first mate, and Mathias Fuchs, steward of said schooner, said island being situated in the Caribbean sea, and lying in latitude 17° 28' 11" north, and longitude 71° 40' 30" west; that, at the time of his taking possession of said island, there were no inhabitants or habitations whatever thereon, or traces of any kind of there ever having been either on the island; that he left on said island a written notice, in conformity to the American guano act, in the following words, as near as he can recollect: "This is to certify that I, Samuel R. Kimball, of the schooner Boston, owned by Messrs. Patterson and Murguiendo, of Baltimore, visited, surveyed, and took possession of this island under the act of Congress provided for such purposes, approved 18th August, 1856, for the purpose of exporting guano to the United States;" that on the 23d of March following he returned again to said island, (having left it for the purpose of chartering vessels to export the said guano to the United States, in conformity to said act of Congress;) and this deponent further stated, that he is now in peaceable possession of said island, shipping guano from and working thereon.

S. R. KIMBALL

In testimony whereof the said deponent hath hereunto subscribed his name, and I, notary, have hereunto set my hand and affixed my seal notarial this thirteenth day of July, in the year of our Lord one thousand eight hundred and sixty.

[SEAL.]

WILLIAM GILMOR, *Notary Public.*

## APPENDIX No. 13.

We take the liberty of enclosing herewith this paper, which has been misplaced. It speaks for itself, and is the strongest evidence that the St. Domingo government were afraid to carry out their designs, after Mr. Miller noted his protest.

Very respectfully, your obedient servants,

PATTERSON & MURGUIENDO.

## APPENDIX No. 14.

BALTIMORE, *January 1, 1861.*

DEAR SIR: About the 4th of December, 1860, we obtained from the State Department a certificate acknowledging us as discoverers of the guano deposits on Alta Vela, under the guano act of 1856. This paper we sent to the island. We would now like to have a duplicate to annex to the statement we are preparing to be laid before the State Department, in view of our expulsion from the island. If we wait until the paper can be obtained from the West Indies it will delay our statement. Feeling satisfied that you will aid us in the matter, we beg to have a copy sent us by return mail.

We have the honor to be your obedient servants,

PATTERSON & MURGUIENDO.

Hon. W. HUNTER,

*Assistant Secretary of State, Washington, D. C.*

## APPENDIX No. 15.

DEPARTMENT OF STATE,  
*January 2, 1861.*

GENTLEMEN: Your letter of the 1st instant, stating that you obtained from the State Department on the 4th of December last a certificate acknowledging you as discoverers of the guano deposits on Alta Vela, and requesting a duplicate of the same, has been received. In reply I have to inform you that as that certificate merely attested the correctness of copies of original papers filed by you, and that none of a prior date relating to Alta Vela had been received by the Department, it is not deemed necessary for the purpose which you mention to issue a duplicate certificate. A reference by you to the original will be sufficient.

I am, gentlemen, your obedient servant,

JEREMIAH S. BLACK.

Messrs. PATTERSON & MURGUIENDO,

*Baltimore, Maryland.*

## APPENDIX No. 16.

UNITED STATES OF AMERICA,

*State of Maryland, City of Baltimore, sc:*

On this seventh day of January, A. D. 1861, before the subscriber, a notary public of the State of Maryland, duly appointed and qualified under the laws thereof, personally appears John A. Miller, who being, at the request of Messrs. Patterson & Murguiendo, merchants of Baltimore, by me sworn on the Holy

Evangelists of Almighty God to tell the truth, the whole truth, and nothing but the truth, deposes and says as follows:

I, John A. Miller, am aged 34 years. I was born 24th of December, 1826, at Gouen, Holland. I was naturalized in 1851 at Baltimore in one of the State courts, viz., the criminal court of Baltimore, and have ever since been a citizen of the United States. I am a mariner. On the 19th of January, 1860, I entered the employ of Messrs. Patterson & Murguiendo, merchants of Baltimore, as mate of the schooner Boston, of Baltimore. In said vessel I sailed from Baltimore on the 21st of January, 1860, for Alta Vela under Captain S. R. Kimball, and arrived there on the 23d of February, 1860. Remained there for 24 hours. We found a deposit of guano, but no inhabitants; no water, it being a desolate islet. I again visited Alto Velo on the 24th of March, 1860, in the schooner Boston, Captain Kimball. I went ashore with two men and remained there until the 24th of October, 1860. My object in going to Alta Vela was to superintend the men there sent by Messrs. Patterson & Murguiendo, of Baltimore, in loading vessels with guano. Several vessels were loaded with guano for the United States on their account. While I was on the islet of Alta Vela the only persons who visited it, except the American vessels and the men-of-war hereafter spoken of, were certain fishermen in fishing boats from Jacmel, Hayti. These fishermen obtained turtle and other fish with my permission, which they carried to Jacmel, Hayti. While Captain Kimball was at Alta Vela he employed some of these fishermen with their fishing boats to go to the island of Beata, Hayti, to obtain water. I, on one occasion, went with them. This island of Beata is about ten miles from Alta Vela, and is the nearest land to it. Beata is inhabited by the Haytiens, and was so occupied while we were at Alta Vela. On the 8th of April, 1860, a Spanish man-of-war arrived at Alta Vela. A boat was manned; the officer and men landed and inquired what was doing on the island. I answered we were Americans and working guano. The stars and stripes were floating at the time on our flagstaff. The officer seemed satisfied and returned to the man-of-war. On the next day an armed open boat from Jacmel, Hayti, visited the islet and made similar inquiries, and left without molesting us. Whenever a vessel or boat would come in sight of the islet, I hoisted the United States flag, (the stars and stripes.) On the 4th of September, 1860, on Thursday, while the American flag was flying on the flagstaff at Alta Vela, the St. Domingo man-of-war, the schooner Merced, arrived; an officer landed and inquired what we were doing on the island, and of what nation we were. We told him he could see we were loading the brig Mary Morton with guano; we were Americans. I gave the officer the business card of Messrs. Patterson & Murguiendo. I showed him the guano act, and told the officer we had taken possession and were working under that act. The officer asked if we would let him take some of the guano, and being answered "yes," sent to his vessel for two buckets and filled them and took them away. Nothing further was said.

On the 23d of October, 1860, the same vessel of war, the Merced, returned to Alta Vela. As soon as the Merced hove in sight I hoisted the American flag, the stars and stripes, on the flagstaff. This standard was visible to the Merced. An officer came ashore from this vessel and asked me why I had hoisted the American flag. I answered him that I had taken possession, under the guano act of Congress, for the United States. I showed him the act of Congress. He asked how long I had been on the island, and I told him, "seven months." This officer said to me, "would I be kind enough to go on board the Merced." I did go. I there saw General Evartz, "the general-in-chief of the flotilla de la Merced." This gentleman inquired of me what nation we were on the island, and what we were doing. I made answer we were Americans, and engaged in shipping guano to the States. I produced and showed to him a copy of the guano act; told him I had been there seven months and had taken possession in the name of the United States. I then left the vessel and went ashore. I

had been ashore about two hours when General Evartz wrote me a letter requiring me to leave the island with all my men and materials in twenty-four hours. This letter and others are annexed to the memorial of Messrs. Patterson & Murguendo to the United States government praying redress. Myself and men were living in three tents on Alta Vela. Over the tents occupied by me floated the American flag. About fifty men and officers came ashore from the Merced; came to our tents, knocked them down, and knocked down our flagstaff, throwing it to the ground, and carried our materials and lumber aboard their vessel; some they burned; the two carts and mules they carried off, and myself and eleven men under me they made prisoners, and took us aboard their vessel and carried us to St. Domingo. When we got in port the officer told us we could go ashore. I was there thirty-three days before I could get away. I left for Baltimore in the schooner Alice Mowe, Captain Kimball, who had come to look after us. The men with me were taken charge of at St. Domingo by Captain Kimball after he arrived there. Some he sent off by vessels to the United States; the balance he brought home with me in the Alice Mowe, which arrived in Baltimore 3d of January, 1861.

JOHN A. MILLER.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it known on this seventh day of January, eighteen hundred and sixty before me, Lewis Sutton, notary public, duly commissioned and qualified in and for the State and city aforesaid, residing in the city of Baltimore, came and personally appeared John A. Miller, formerly mate of the schooner Boston, of the port of Baltimore, and late superintendent of the island of Alta Vela in the Caribbean sea, and made oath on the Holy Evangely of Almighty God that the within statement of facts is true to the best of his knowledge and belief, and in my presence and before me signed his name and affixed his signature to the same.

In testimony whereof, I have hereunto set my hand and affixed my seal notarial on the day and year above written.

[SEAL.]

LEWIS SUTTON,  
*Notary Public.*

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APPENDIX No. 17.

ALLA VELA, *October 24, 1860.*

SIR: I kan inform yoe thad I was boardet by a St. Domingian man-of-war withs orderd me to leef the Island in 24 hours Notice; there was no resisting juest; there where 150 man on board the Schoener then have taken ous all to St. Domingo. I hope yoe wil soon arrive; there was no tyme fore mie to take all the things, soo I hope yoe wil find them aal on the Island; wie leeft the Island Wednesday; there was neuws in St. Domingo houw mugh Guano there was taking of, and I have toold them about 900 tons, moree or Les; and the Brig Mary Morton the Island on friday with 300 tons of Guano; you wil find som of the Stores in the bhushes wehre the tents stood, and one barel Beef Near the landing, and one Barel flour about 20 yard from the Bechae, and som of the stores near the pitt weahre the Guano was digd the Boots ar leeft on the Island, the rest was all taking by them and put on board the schoener. I give yoe the sama tyme copy of a letter withs I wrote to the comander of the Schoener.

JOHN A. MILLER.

Captain KIMBALL.



## APPENDIX No. 18.

UNITED STATES OF AMERICA,

*State of Maryland, City of Baltimore, &c :*

On the seventh day of January, A. D. 1861, before the subscriber, a notary public, duly appointed under the laws of Maryland and duly qualified, personally appears Samuel R. Kimball, born on the 23d January, 1819, in Gloucester county, Virginia, a citizen of the United States of America, and at the request of Messrs. Patterson and Murguiendo, merchants of Baltimore, is sworn by me, the said notary public, to tell the truth, the whole truth, and nothing but the truth; the said oath being administered on the Holy Evangel of Almighty God; and the said Samuel R. Kimball so being sworn proceeds to depose and say, as follows :

I, Samuel R. Kimball, am a citizen of the United States. I was born in Gloucester county, Virginia, on the 23d January, 1819. I am a master mariner. On the 10th November, 1860, being in command of the schooner *Alice Mowe*, of Baltimore, Maryland, I visited the islet, a key of *Alta Vela*, where I expected to find Captain John A. Miller and men under him in possession of said islet, working the deposit of guano thereon, with a view to its shipment to the United States. My schooner, the *Alice Mowe*, was in ballast, from Jamaica, I having come to *Alta Vela* at that time to load with guano for Baltimore, Maryland. I found the islet unoccupied. It bore the marks of desertion. There were visible wrecks of property, bearing marks of injury from fire. The explanation of its desertion I found in the annexed letters, which were deposited in bottles and placed on the islet where I found them. I had been to *Alta Vela* on the 14th day of October, 1860, on my way from Baltimore to Kingston, Jamaica, in the schooner *Alice Mowe*, and then had left men, materials, and provisions for Captain Miller; amongst other materials then left by me were two carts and two mules. Captain Miller had been placed on the key of *Alta Vela* by me on the 24th March, 1860, from the schooner *Boston*, of Baltimore, then under my command; I being in the employ of Messrs. Patterson and Murguiendo, merchants of Baltimore. At the same time two men were placed on the islet under Captain Miller. On the 23d February, 1860, I visited *Alta Vela*. I was at that time in command of the schooner *Boston*, of Baltimore; it having been fitted out by the said firm of Patterson and Murguiendo, of Baltimore, for the purpose of exploring the Caribbean sea for islets or keys containing deposits of guano. When I landed at *Alta Vela*, on the 23d February, 1860, I examined it and found a deposit of guano. On the 24th of March, 1860, I returned to *Alta Vela*. I landed Captain John A. Miller at that time from the schooner *Boston*, with two men and materials for working the deposits of guano and loading vessels. I left *Alta Vela* on the 31st March, 1860. I returned on the 15th April, 1860, with four additional laborers and provisions. In April, 1860, at Kingston, Jamaica, I chartered the bark *Ellen Morrison*, of New York, to proceed to *Alta Vela*, there to load with guano for Baltimore. This bark arrived 18th April, 1860; was loaded with guano from *Alta Vela*, and sailed for Baltimore 11th May, 1860. This key or islet of *Alta Vela* was unoccupied and uninhabited by any one at the time I took possession of it in February, 1860, for Messrs. Patterson and Murguiendo, of Baltimore. It is destitute of water and desolate. Its description, latitude and longitude, and notice of its discovery as to guano deposits, have been communicated to the State Department by me heretofore, which discovery and information are on file in the State Department. When, on the 10th November, 1860, I discovered *Alta Vela* had been deprived of its occupants I left it, but before doing so I wrote a letter which I deposited in a bottle and left on the islet, requesting any captain who might come there from Messrs. Patterson & Murguiendo to load with guano. I left the bottle containing such letter in such a position on the islet as any one visiting it might find it. On the 10th November, 1860,

when I left Alta Vela, I proceeded to the city of St. Domingo, for the purpose of ascertaining what disposition had been made of Captain Miller and his eleven men, and the property of Messrs. Patterson & Murguiendo, under his charge. What action and proceedings I then took are detailed in the protest made by me before Jonathan Elliott, Commercial Agent of the United States, and the file of letters certified to by him, which are appended to the petition of Messrs. Patterson & Murguiendo, praying redress from the government of the United States. I estimate the quantity of guano on Alto Velo at one hundred thousand tons. The islet is about two miles in extent. The highest point is about four hundred feet high. The whole or nearly the whole of the islet is covered with deposits of guano, and is of a good quality. The estimate I make is, of course, conjectural, but is put by me under rather than over the quantity.

S. R. KIMBALL.

STATE OF MARYLAND, *Baltimore city, to wit:*

Be it known on this seventh day of January, eighteen hundred and sixty, before me, Lewis Sutton, notary public, duly commissioned and qualified, in and for the State and city aforesaid, residing in the city of Baltimore, came and personally appeared Samuel R. Kimball, formerly master of the schooner Boston, of the port of Baltimore, now master of the schooner Alice Mowe, of Baltimore, acting agent for Messrs. Patterson & Murguiendo, of Baltimore, for the island of Alta Vela, in the Caribbean sea, and made oath on the Holy Evangelists of Almighty God that the within statements of facts are true to the best of his knowledge and belief, and in my presence, and before me, signed his name and affixed his signature to the same.

In testimony whereof I have hereunto set my hand and affixed my seal, notarily, on the day and year above written.

[SEAL.]

LEWIS SUTTON.

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APPENDIX No. 19.

BALTIMORE, *January 8, 1861*

SIR: Under the provisions of an act of Congress of the United States of America, approved August 18, 1856, entitled "An act to authorize protection to be given to the citizens of the United States who may discover deposits of guano," the undersigned citizens of the United States, viz., Abraham B. Patterson and Prudence de Murguiendo, merchants of Baltimore, in the State of Maryland, trading under the styles and firm of Patterson & Murguiendo, having, in the month of February, 1860, discovered a deposit of guano on the islet of Alta Vela, the same not being within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, they, the said firm of Patterson & Murguiendo, took peaceable possession thereof and occupied the same, with the intention of removing from said islet or key the deposits of guano thereon contained, for the purpose of selling and delivering the same to citizens of the United States of America, for the purpose of being used therein; and the said firm respectfully represent to the Department of State of the United States of America, that on the part of said firm they complied with the provisions of the said act of Congress, hereinbefore referred to, and did give notice to the State Department of the United States of America of such discovery, occupation and possession, verified by affidavits describing said isle or key, and the latitude and longitude thereof, and showing that such possession was taken in the name of the United States; and the said firm furnished to the State Department satisfactory evidence that such islet or key, known as Alta Vela, was

not at the time of discovery thereof, and at the time of the taking possession and occupation thereof by the said firm, in the possession or occupation of any other government, or of the citizens of any other government, for the full particulars of which actings and doings by the said firm under said act of Congress the said firm beg leave most respectfully to refer to the said documents on file in the State Department. And the said firm further represent that they continued in the quiet and peaceable occupation of said islet, working and removing the deposits of guano thereon, from the time of actually taking possession, to wit, the 24th of March, 1860, until the 24th of October, 1860, when the possession held by the said firm was forcibly hindered and prevented by the interference of General Evertz, "the general-in-chief of the flotilla of the Merced," who appeared before the said islet of Alta Vela in the war schooner Merced, a vessel of war of the Dominican government, on the 23d of October, 1860, and from said islet of Alta Vela expelled the agents of this firm, to wit: John A. Miller and eleven laborers therefrom, who, together with their implements and materials for digging the deposits of guano and shipping the same, had been placed on said islet of Alta Vela by the said firm under the provisions of the guano act passed by Congress. And the said firm further represent that when the said war schooner Merced appeared before the islet of Alta Vela, with the purpose, as was subsequently developed, of expelling the parties in possession, they, the said parties, had hoisted the American flag, as well for their protection as evidence of their nationality and of the lawfulness of their pursuit; and on the arrival at said islet of an officer from the war schooner Merced, in response to inquiries put by such officer to Captain Miller, the officer was informed that the parties on the islet were Americans and engaged in shipping guano to the United States; that they had been in peaceable possession seven months, and had taken possession in the name of the United States. Captain Miller produced and showed to the officer interrogating him a printed copy of the act of Congress known as the "guano act." After making this statement to the officer, he invited Captain Miller on board the war schooner Merced to have an interview with General Evertz, its commander. Captain Miller went on board, and to General Evertz exhibited the guano act of Congress, and made the same statement as to the possession of the islet, the nationality of the men on the islet, and their object in keeping possession as first made to the officer, as hereinbefore detailed. Captain Miller left the war schooner Merced, went ashore, and had been there about two hours when the commander, General Evertz, sent a letter requiring Captain Miller and his men to vacate the islet. To this demand Captain Miller gave the only response in his power, that it was impossible for him to comply, as there was no vessel there in which they could leave.

And the said firm further represent that, on the next day, they were forcibly deprived of their possessions by the act of General Evertz, who, from his said vessel, the Merced, landed a large party, amounting, officers and men, to about fifty in number, who came on the islet, knocked down the flag-staff on which was flying the American flag, (the stars and stripes,) overthrew the tents in which Captain Miller and his eleven men lived, destroyed material used by Captain Miller on the islet, forced Captain Miller and his men on board the Merced, and carried them prisoners to the city of St. Domingo. And the said firm further represent that this proceeding on the part of the officers and men of the schooner of war Merced was, and is, wholly without lawful warrant or authority, and is such an act as compels the said firm to submit the case to their own government for redress of their wrongs.

And the said firm further represent that the files of the Department of State show that they, the said firm, were the first discoverers of the deposit of guano on the island of Alta Vela; that, acting under and by virtue of the authority of the act of Congress known as the "guano act," and in full reliance of the fostering care and protection of their government, the said firm took peaceable possession

of the islet of Alta Vela, barren and desert, with no other purpose or view than to remove therefrom the deposits of guano thereon for the use of citizens of the United States, and in so acting and doing, as by the said act of Congress the said islet of Alta Vela was considered as appertaining to the United States, the said firm believed all necessary protection would be afforded them, and hence, upon the approach of any vessel, whether of war or otherwise, their national flag was hoisted, that the nationality of the men engaged in and about the business of the said firm might be made manifest to the world.

And the said firm further represent that the damages and injuries sustained by them had been very great by their expulsion from said island of Alta Vela. The evidence submitted herewith shows the quantity of guano on said islet to be, at least, one hundred thousand tons, which, at the valuation placed by the second section of the guano act, viz., four dollars (\$4) per ton in its native place of deposit, would make the deprivation of the firm's right to possession a loss to them of four hundred thousand dollars, (\$400,000.) But the guano, to the said firm, after paying all working expenses, would yield a net profit of eight dollars and thirty-two cents (\$8 32) per ton.

And the said firm further represent that, during the seven months they held possession, they had received from the islet of Alta Vela 1,074  $\frac{1090}{2240}$  tons of guano therefrom, which have been landed at the port of Baltimore, and brought there by their and other vessels, as will be seen by the custom-house certificate herewith appended. Upon such guano a profit had been realized by the firm of nine thousand three hundred and seventy-nine dollars and seventy-seven cents, (\$9,379 77,) as will be seen by the statement annexed; and the said firm further represent that such profit so by them realized is scarcely a fair criterion of what they might have realized from the removal of the deposits of guano from the island of Alta Vela, because at the time they were driven therefrom they had increased their force of men and material, and had acquired experience in working and shipping the deposits, and thereby the citizens of the United States, and persons resident therein, would have been materially benefited by its introduction.

The papers herewith submitted with this memorial show the actual injury sustained by the said firm, and for which the said firm humbly pray amends and compensation, as well also for the deprivation of the right to remove the deposits of guano, to which, it is respectfully submitted, they had acquired title.

And the said firm earnestly invite the attention of the Department of State to the fact disclosed in the deposition of Captain John A. Miller, that the steps taken for the dislodgement of their firm from the island of Alta Vela were not hasty, but were upon consultation of those in authority in the Dominican government, and after full notice by the firm, through their agents on the island. The deposition, herewith submitted, of Captain Miller, shows that the war schooner Merced visited the island of Alta Vela on the 4th of September, 1860—there saw the American flag displayed from the flag-staff. An officer landed from the Merced, and inquired into the occupancy of the islet. Not only was he told they were Americans, but he was shown a copy of the act of Congress under which the islet was occupied, and the business card of the firm was furnished him, which he took away, as also two buckets of the guano, and saw, loading there with the guano, the brig Mary Morton.

The State Department is doubtless apprised by letters from its special agent, William L. Cazneau, that the Dominican government proposed to dislodge this firm and its agents by force, and destroyed their property on Alta Vela—though, doubtless, had such information reached the Department in time to prevent it, this firm and its agents would have been protected in their occupancy.

The attention of the Department is requested as well to the despatches of Mr. Cazneau as to the letter, herewith appended, of O. De Ronceray, Esq., United States Consul at St. John's, Puerto Rico, showing that the islet of Alta Vela has never been claimed or occupied by Dominican citizens, or that government

had ever exercised the nominal care of this outlying sand-spit, until this firm had discovered and developed its guano resources.

Further: the attention of the Department is invited to the deposition of Captain Miller, as showing that the only persons visiting this islet from the neighboring territory were the Haytiens from the island of Beata, ten miles or thereabouts distant from Alta Vela.

The firm of Patterson & Murguiendo do now submit this, their statement, together with their proofs in support thereof, to the Department of State, and pray that such relief and redress as is in the power of the United States government may be afforded them.

We have the honor to subscribe ourselves, your obedient servants,  
PATTERSON & MURGUIENDO.

Hon. J. S. BLACK,  
*Secretary of State, Washington, D. C.*

UNITED STATES OF AMERICA,  
*State of Maryland, City of Baltimore, sc.:*

On this ninth day of January, 1861, before the undersigned, a notary public, duly commissioned and qualified under the laws of Maryland, personally appear Abraham B. Patterson and Prudence de Murguiendo, and made oath, in due form of law, that the matters and facts set forth in the foregoing memorial and accompanying vouchers and proofs are, to the best of their knowledge and belief, true.

In testimony whereof, I have hereunto affixed my official seal as such notary public.

[SEAL.]

WILLIAM GILMOR, *Notary Public.*

*Statement of actual loss sustained by Patterson & Murguiendo by their expulsion by the Dominican government from the islet of Alta Vela on the 24th of October, 1860.*

Expense of cost and discovery of islet .....	\$4, 000 00
Pay of men, support, cost of returning and maintenance for seven months .....	2, 350 00
Cost of material and transportation of same to work guano deposits.	3, 540 00
Loss by freights and charter-parties of vessels returned in ballast..	4, 378 50
Loss of profit on guano, if received by these vessels, 973 tons, at \$8 32, after deducting freights, &c. ....	8, 095 36
Total .....	<u>22, 363 86</u>

This is to certify that the following is a true statement of the profits made on the cargoes of guano imported from the island of Alta Vela, in the Caribbean sea, during the seven months' occupation of said island :

Profit on $231\frac{1629}{2240}$ tons of guano, per bark Ellen Morrison .....	\$2, 768 42
Profit on $83\frac{373}{2240}$ tons of guano, per Tremont .....	728 13
Profit on $47\frac{30}{2240}$ tons of guano, per F. Howell .....	589 21
Profit on $324\frac{964}{2240}$ tons of guano, per J. Morton .....	2, 817 16
Profit on $133\frac{797}{2240}$ tons of guano, per Alice Mowe .....	589 77
Profit on $254\frac{786}{2240}$ tons of guano, per Mary Morton .....	1, 887 03
Profit on $1,074\frac{1090}{2240}$ tons of guano .....	<u>9, 379 77</u>



Since the taking forcible possession of the island of Alta Vela by the St. Domingo government, the brig Roseway Belle and schooner Alice Mowe have arrived in ballast, which were chartered to go to said island to load with guano, together with the schooner Minerva and brig Mary Morton, both of which vessels will come upon us with claims for non-fulfilment of charter-parties; the first two belong to us, and their freight is estimated at the same price per ton as the last.

The profit on the four cargoes of guano, taken at the average price at which the six previous cargoes were sold, is \$15 82 per ton, less \$7 50 per ton, amount of charges covering freight, insurance, labor, inspection, &c.—leaving a net profit of \$8 32 per ton on the cargoes that the following vessels would certainly have brought: On 230 tons, brig Roseway Belle; on 223 tons, schooner Alice Mowe; on 200 tons, schooner Minerva; on 320 tons, brig Mary Morton—973 tons of guano, at \$8 32 net profit per ton, \$8,095 36.

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APPENDIX No. 20.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA.

By this public instrument of declaration and protest, be it known and made manifest unto all whom these presents shall come or may concern, that, on the 16th day of November, A. D. 1860, before me, Jonathan Elliott, Commercial Agent of the United States of America for the city of St. Domingo, Porto Plata, and the dependencies thereof, personally came and appeared S. R. Kimball, master of the vessel called the Alice Mowe, of Baltimore, now detained in this port of St. Domingo city, who duly noted and entered with me, the said Commercial Agent, his protest, for the uses and purposes hereinafter mentioned, and now, on this day, to wit, the day of the date hereof, before me, the said Commercial Agent, again comes the said S. R. Kimball, and requires me to extend this protest, and, being by me sworn on the Holy Evangelists of the Almighty God, did voluntarily, freely, and solemnly declare, depose, and state as follows, that is to say, that said appearer is a citizen of the United States of America; that he solemnly protests against the restriction of liberty and loss of property to which he and other American citizens have been subjected at Alta Vela key and in the city of St. Domingo, to which place they were brought against their will.

The desert key of Alta Vela is some fifteen or twenty miles outside of the most extreme southern point of the Dominican territory, and was apparently open to our temporary occupation.

By an act of the Congress of the United States, approved August 18, 1856, to authorize protection to be given to citizens of the United States who may discover deposits of guano, which declares “that any citizen or citizens of the United States who may have discovered or shall hereafter discover a deposit of guano on any island, rock, or key not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof and occupy the same, said island, or key, or rock, may, at the discretion of the President of the United States, be considered as appertaining to the United States.”

This appearer, in the month of November, 1859, while in the employ of Messieurs Patterson & Murguiendo, of Baltimore, visited the then desolate key of Alta Vela in search of guano deposits, believing, from all the information they could obtain on the subject, that at no previous time had any nation ever occupied it, or exercised any jurisdiction over it. He found it a barren desert, wholly destitute of water, but, believing it contained guano, the firm of Patterson & Murguiendo decided to undertake the heavy outlays which it was necessary to incur before its resources could be brought to use.



Due notice of its discovery was filed in the Department of State at Washington, and possession taken accordingly, in the firm conviction that he was acting under a right recognized by the laws and protected by the flag of his country.

This appearer and associate, now present in Santo Domingo, commenced operations and in the employ and at the responsibility of the above-mentioned firm of Patterson & Murguiendo, of Baltimore, on the 23d of March, 1860, and never heard of any objections thereto until they were violently ejected on the 23d of October last.

During this seven months the Dominican government paid no more attention to the proceedings of the Americans at Alta Vela than did the authorities of the neighboring English and Spanish colonies. If this non-interference for seven months was due to the fact that the Dominican government had no cognizance of the state of affairs at Alta Vela, that circumstance in itself is an evidence that this appearer had some reason for supposing that this neglected key was not under the care or jurisdiction of the Dominican Republic.

Nevertheless, this appearer, in the sincere desire to maintain a peaceable as well as a strictly legal position, would have been ready to evacuate Alta Vela, or to make a suitable and satisfactory arrangement for its development with the Dominican or any other government which at any time had made manifestation of its sovereign rights over Alta Vela key. Unfortunately this appearer never received any information or notice of the kind until it came in the unexpected form of the forcible capture of the party who thought themselves legally at work there under the above cited act of the Congress of the United States.

The Dominican war schooner La Merced presented itself before Alta Vela on the 23d of October, and ordered the Americans to quit the key in twenty-four hours.

The laborers had no means of leaving the place, except by the Dominican vessel, and had no alternative but to come in her as captives to the city of St. Domingo.

As this appearer was absent at the time on a short trip to Jamaica, in the schooner Alice Mowe, the acting manager, Mr. Miller, requested permission to leave one man on the key to take charge of the property and to inform this appearer on his return of the summary ejection of the laborers, in order that he might make arrangements to relieve them from their constrained residence at Santo Domingo and provide conveyance for them to the United States. This was refused, and twelve persons, with a portion of the property, were brought to this city.

This appearer would here state one prominent reason why he supposed neither of the two nations occupying the large island of Hayti assumed any government over Alta Vela.

He had visited this key in the successive years of 1842, 1843, and 1844, and frequently afterwards, up to the present year of 1860, and on no occasion had ever met a Dominican citizen or official in that vicinity. In all these visits, and during the whole period in which this appearer and others in the employment of the firm were openly landing materials, preparing the works and pursuing the business under the full conviction that there was no lawful hindrance to their operations, the only persons they saw belonging to the mainland were the Haytiens, whom, in all these cases, they found in the unmolested possession of the island of Beata.

The Haytiens claim sovereignty over the nearest main shore, and they, for years, have been the sole occupants of Beata, and therefore, they, if any, had the power to claim jurisdiction over Alta Vela, but they seemed to abandon it as a useless, outlying key. A party of Haytiens were living on the island of Beata while this appearer was preparing the works, and their government sent an officer with an armed boat to inquire into the character of the occupation of

Alta Vela, but, after satisfying himself that the Americans were engaged in a purely industrial enterprise, withdrew in all courtesy.

Thus, while the government of Hayti claims sovereignty over the nearest inhabited shore, and asserts that she permits none but her own citizens to occupy the adjacent island of Beata, it did not pretend to interfere with the Americans at Alta Vela.

As Hayti alone gave the usual evidences of a *de facto* government in that quarter, this appearer respectfully submits that he and his associates were not reprehensible in any of their acts at Alta Vela, and that they are entitled to the restitution which they hereby claim of the Dominican Republic for the losses of property and other damages which they have sustained through the harsh and needless precipitation of its officers.

And the said appearer doth further declare and say that he arrived off this port on the 15th of November, 1860, to communicate with the United States Consul; and being informed by him that the Dominican government had placed at his disposition the men and effects brought from Alta Vela, and that for the purpose of receiving and embarking said men and effects on board the schooner *Alice Mowe*, of Baltimore, under his command without encountering any difficulties, being ready for sea, he made the application for a permit to proceed to sea, and was then informed that said vessel could not leave the port. Wherefore the said S. R. Kimball, master, hath protested, as by these presents, I, the said Commercial Agent, at his special instance and request, do publicly and solemnly protest against the acts of the Dominican government, as authorities, and all and every person or persons whom it doth or may concern, and do declare that all losses, damages, and expenses that have happened to the said S. R. Kimball, and all others that may be interested or who shall hereafter suffer or sustain damage or injury, ought to be borne by those to whom the same, by right, may appertain.

In testimony whereof this appearer has subscribed his name, and I, the said Commercial Agent, have granted the said master this public instrument under my hand and the seal of this Commercial Agency, to serve and avail him, and all others whom it doth or may concern, as need and occasion may require.

JONATHAN ELLIOTT,  
United States Commercial Agent.  
S. R. KIMBALL.

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#### APPENDIX No. 21.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDER OF THE MARINE OF THE PORT OF THIS CAPITAL.

My government is alarmed at the disagreeable advices that foreigners had violated the Dominican territory, invading the island of Alta Vela—that belongs to the legal jurisdiction of the province of Azua—with the object of exporting guano, which said island encloses. I am authorized, that in their name, and invoking the right acknowledged by all civilized nations, to dislodge with the greatest brevity any foreigners that may be occupying this island, as well as the island of Beata.

I count beforehand that you will not part from the justice and moderation characteristic of an American; and reflecting with maturity the consequences that circumstances like the present would bring on the least infraction of international rights, you will not hesitate one moment in leaving the island of Alta Vela.

I give you twenty-four hours to leave the island, making you responsible for the consequences if I receive a negative from you, in which case I will execute to the letter my superior orders.

Before Alta Vela, October 23, 1860.

JUAN EVERTZ.

Mr. JOHN A. MILLER.

APPENDIX No. 22.

ALTA VELA.

DEAR SIR: I have the honour to inform you that I received your official letter of this date and in answer to the same I am sorry that Capt. Kimbal my employer is at present at Jamaica I have given this morning all information possible to the commission sent by you on shore but under the present circumstance as you request me to retire with all the lebores and articles allowing only twenty-four hours time for the same I inform you that I have no vessel at present to ship, and at the same time obeying your orders and not opposing myself in any way or manner therefore I am at your disposal and please allow me to leave one man on the Island to take care of the articles left behind and to deliver a letter to Capt. R. S. Kimbal on his arrival from Jamaica, As a man employed I cannot say any more

Respecting Sir,

your most obedient servant

J. A. MILLER.

General JEANE EVERTZ,

*Commander of the Schooner-of-war Merced.*

APPENDIX No. 23.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDING MARINE OF THE CAPITAL.

Perfectly advised of the contents of your note of yesterday, I make known to you that the vessel under my command is at your disposition, and that I will, with much pleasure, receive you in it, accompanied by all your men and the effects that you may have on the island.

I regret that it is not possible for me to give you a new proof of my good wishes by granting you the privilege of leaving one man on the island of Alta Vela.

My instructions are very positive, and I would overleap them if I would leave on said island the least vestige of foreign occupancy.

I will make every effort that lies in my power that all your effects may be put on board, and that nothing of any value may be left which you may not entirely abandon.

Front of Alto Velo, October 24, 1860.

JUAN EVERTZ.

Mr. JOHN A. MILLER.

APPENDIX No. 24.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,

*St. Domingo, October 28, 1860.*

SIR: Having ordered one of our vessels of war to visit the islands of Beata and Alta Vela, there have been found on the last twelve men occupied in explor-

ing the guano, which is the property of this republic, who say they are Americans; and although the rights of men would give us the right of trying them and punishing them, as corresponds, my government, having due deference to the nation to which they belong, has disposed that they be put at your disposal, with all their effects which have been found on said island, which they used in shipping and digging guano.

My government, nevertheless, reserves the right to make reclamation where it may correspond, for all the values extracted from the republic.

FELIPE D. F. DE CASTRO.

U. S. COMMERCIAL AGENT, *St. Domingo.*

#### APPENDIX No. 25.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,  
*St. Domingo, October 28, 1860.*

SIR: I have received a letter of this date from the Minister of Foreign Affairs of this republic, wherein he states that "yourself, men, and effects are placed at my disposition;" consequently you will find lodgings for your men, and receive the effects belonging to the firm you are working for, from General John Evertz, commander of this port, to whom, I presume, this government has given the necessary instructions.

I am, sir, your obedient servant,

JONATHAN ELLIOTT,  
*United States Commercial Agent.*

Mr. JOHN A. MILLER, of *Baltimore.*

#### APPENDIX No. 26.

[Translation.]

DOMINICAN REPUBLIC, GENERAL COMMANDING THE MARINE OF THE CAPITAL OF THE REPUBLIC.

*ST. DOMINGO, October 28, 1866.*

Mr. CONSUL: By orders of the superior government, I put at your disposal the twelve American men and their effects, brought from Alta Vela to this port, which you will find on board of the man-of-war *Merced*, which will be discharged to-morrow.

JUAN EVERTZ.

U. S. COMMERCIAL AGENT, *St. Domingo.*

#### APPENDIX No. 27.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,  
*City of St. Domingo, October 29, 1860.*

SIR: I have the honor to acknowledge the receipt of your note of the 28th instant, in which you inform me that one of your vessels of war found twelve Americans extracting the guano from the island of Alta Vela, being property of the *Dominican Republic*; and although by the right of nations they could be judged and punished—that your government, for the great deference for the nation to which they belong, place them and all effects found with them at my disposition; all of which I will, with pleasure, communicate to my government by the first opportunity.

I am informed that notice has been left at Alta Vela for the agent of the firm who are taking this guano to come to this city, and that he may be expected within two weeks. I have reason to believe that on his arrival here all will be settled to the entire satisfaction of your government, without having to appeal to that of the United States.

I have the honor to be, &c.,

JONATHAN ELLIOTT.

Hon. MINISTER OF FOREIGN AFFAIRS

*of the Dominican Republic.*

APPENDIX No. 28.

SCHOONER ALICE MOWE,

*Off Port of St. Domingo, November 15, 1860.*

SIR: A short time since I discovered a small deposit of guano upon the island of Alta Vela, and took possession of it under act of Congress passed in August, 1856, for the purpose of removing the guano, believing at the time that it was not claimed exclusively by either of the governments of the island of St. Domingo, as I know it to have been used by the citizens of both, for many years, as a fishing station. I, however, notified our government of the fact of possession, and while waiting a reply continued to collect and ship a small lot of guano, and in October landed a party of men and materials for the better working of the same, at the same time being ready to treat with either party who might establish a claim, and to pay for what I had taken away.

On the 24th of October, while absent from the island, a vessel of war from St. Domingo city came to the island and took away all the men and materials (including two mules and carts) which I had landed, and have brought them to the city. As I disclaim any intention of trespassing upon the government. I am ready to pay a fair rate for what has been removed, and to purchase what remains, as well as what may hereafter be discovered, if the government will give me back my property and permission to occupy the island for that purpose. I make this offer upon the supposition that they have a legal right to the island.

Will you be pleased to inform me if I can enter the port for the purpose of negotiating through your office with the government, without having my vessel or myself detained? If I cannot, and it is in your power, be so good as to send my men off to the ship. If neither of these can be done, drop me a few lines advising me of the condition of my men, and how to act. I will, of course, bear all expenses. I am connected with Messrs. Patterson & Murguiendo, merchants of the highest respectability and influence in the city of Baltimore, and with government. The senior partner is a personal friend of the Secretary of State, and they will sustain me in any arrangement I may make.

I will lay off and on the port and await your instructions.

I am, sir, respectfully, your obedient servant,

S. R. KIMBALL,

*Master of Schooner.*

Hon. CONSUL *of the United States.*

APPENDIX No. 29.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,

*City of St. Domingo, November 15, 1860.*

SIR: All your men, and all the articles taken from the island of Alta Vela by order of this government, have been placed at my disposition, and are here awaiting your arrival.

I do not believe you will encounter any difficulty in entering the port, as this government has informed me that their reclamation for the guano taken is to be upon those who have to answer for the same. I therefore consider that you and your vessel come under this same act, and must be treated in the same manner as the men and articles brought from Alta Vela.

Your obedient servant,

JONATHAN ELLIOTT,  
*United States Commercial Agent.*

S. R. KIMBALL,  
*Master of the Schooner Alice Mowe.*

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APPENDIX No. 30.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,  
*St. Domingo, November 19, 1860.*

SIR: The government, desiring not to embarrass the captain of the American schooner Alice Mowe, which has, contrary to our fiscal laws, come upon our territory without our authority, and has taken away 1,400 tons of guano from the island of Alta Vela, we propose, through you, a friendly arrangement, which has for its basis the indemnity of the values taken, ignoring on our part, if it should be executed, all other claims which we have, for having used a force in our dominions, and taken from us a natural product for which we did not wish to negotiate with others who, before, had proposed to buy.

The bad result that the interview which you asked produced between the subscriber and the captain referred to, puts me to the necessity of reiterating to you in writing the demand of my government, so as to advise through you the interested party, that in case of his refusing to indemnify the republic satisfactorily for the damage caused, we will be under the necessity of holding him for the competent tribunal, and that he remain bound to the responsibilities that the law may impose.

F. D. DE CASTRO.

UNITED STATES COMMERCIAL AGENT.

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APPENDIX No. 31.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,  
*City of St. Domingo, November 20, 1860.*

SEÑOR MINISTER: I have the honor to acknowledge the receipt of yours of yesterday, the 19th, in which you state that your government require indemnification for the guano taken from the island of Alta Vela by an American company of Baltimore, said guano being the property of the Dominican Republic.

The captain of the American schooner Alice Mowe, who is in the employ of the said company, is desirous to settle amicably, and wishes to know the value that you place upon the same, and to satisfy you in every way in his power. He authorizes me to give you the following information, which can be sworn to and proved, if necessary:

There has been taken by the

	Tons.
Bark Ellen Morrison .....	231
Schooner Fremont .....	83
Schooner Fred. Howell .....	41



	Tons.
Schooner Jenny Morton.....	297
Brig Mary Morton.....	250
Schooner Alice Mowe.....	131
	<hr/>
Total.....	1,033
	<hr/> <hr/>

The average price that this guano sold for was \$14 per ton; the expenses of labor, freight, insurance, charges, &c., deducted from this will give some idea of the price to be fixed on the guano as it lies.

This guano serves only to mix with that brought from the Pacific, as it is well known that in countries where it is exposed to rain it loses all its most valuable qualities.

I am also requested to say that Captain Kimball is desirous to enter into a contract with the Dominican government for the purchase of guano, if the terms are such as the company he is employed by can agree to.

I have the honor to be, &c.,

JONATHAN ELLIOTT.

Hon. MINISTER OF FOREIGN AFFAIRS

*of the Dominican Republic.*

#### APPENDIX No. 32.

COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,

*City of St. Domingo, November 28, 1860.*

SIR: Captain Kimball, of the American schooner Alice Mowe, who entered this port for the purpose of taking away the men and materials brought here from Altavela, by order of the Dominican government, and which were placed at my disposition, informs me that he has twice made application to you to permit him to go to sea, and has been refused. I now request that you will let Captain Kimball proceed with his vessel to sea immediately, without further hindrance, or please state to me in writing the reasons why he cannot leave this port.

I have the honor to be, &c.,

JONATHAN ELLIOTT,

*United States Commercial Agent.*

Señor COMMANDANTE

*of the port of St. Domingo City*

#### APPENDIX No. 33.

[Translation.]

NOVEMBER 28, 1860.

DEAR SIR: I have received your letter under date of to-day. The reason I have had for not permitting the clearance of Captain S. R. Kimball, of the America schooner Alice Mowe, is because I have so been ordered by superior orders which I have received.

JUAN EVARTZ.

U. S. COMMERCIAL AGENT, *St. Domingo.*

## APPENDIX No. 34.

[Translation.]

MINISTRY OF FOREIGN RELATIONS,  
*St. Domingo, November 28, 1860.*

Mr. AGENT: I have made known to the government the contents of your communication of the 20th instant, which informs me that the guano exported from the island of Alta Vela by American citizens is about 1,033 tons, exported in six different vessels, and proposes to satisfy the republic for the corresponding value.

My government sees with pleasure that those gentlemen have acknowledged without difficulty our good right to the property on Alta Vela, and their disposition to indemnify us for the value of the guano. The government has positive information that a ton of guano in most ports of the United States is worth from \$40 to \$50, and not about \$14, as stated by Captain Kimball; but wishing to average this disagreeable matter, and in view of the expenses of shipping it, freight, &c., it fixes the price of royalty at \$8 per ton.

If, at this price, which I think is moderate, the parties may object, the question can be settled by arbitrators, named to the satisfaction of both parties.

LAVASTIDA,  
*Minister of War.*

UNITED STATES COMMERCIAL AGENT.

## APPENDIX No. 35.

No. 15.] COMMERCIAL AGENCY OF THE UNITED STATES OF AMERICA,  
*City of St. Domingo, November 29, 1860.*

SEÑOR MINISTER: I have the honor to acknowledge the receipt of your note of yesterday, and after making known the contents of the same to Captain Kimball, master of the schooner Alice Mowe, of Baltimore, he tells me that he cannot agree to the propositions contained therein.

I beg leave further to state, that he maintains his right to claim damages for his detention here, and also on behalf of the firm of Patterson & Murguendo, of Baltimore, who took possession of the guano at Alta Vela under the act of the United States Congress of August, 1856, and his reasons are fully given in the accompanying protest.

He entered this port to embark the men and effects placed at my disposition, believing that your government would keep to the assurance given in the official note to me of the 28th of October, wherein it is stated that the men and articles brought from Alta Vela were, for the great deference for the nation to which they belonged, placed at my disposition; and that the Dominican government would reclaim from those upon whom the responsibility rested.

I have the honor to be, sir, &c.,

JONATHAN ELLIOTT,  
*United States Commercial Agent.*

HON. MINISTER OF FOREIGN AFFAIRS  
*of the Dominican Republic.*

## APPENDIX No. 36.

DEPARTMENT OF STATE,  
*Washington, D. C., January 14, 1861.*

GENTLEMEN: I have to acknowledge the receipt of your memorial and accompanying papers, complaining of an interference by Dominican authorities with

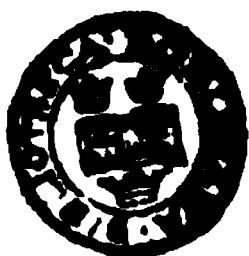
the persons and property placed by you on the island of Alta Vela, for the purpose of collecting guano, and asking this government to afford you "such relief and redress as may be in its power for the losses" alleged to have been sustained thereby.

In reply, I have to inform you that the government is entirely disposed to protect you in the enjoyment of any rights which you may have legally acquired to the guano on that island. Inasmuch, however, as the Dominican Republic is understood to claim jurisdiction over Alta Vela—a claim which another applicant was informed, in June last, might probably be asserted on account of the position of the island—the Department deems it proper, before taking other steps in the matter, to address a communication to its special agent, Mr. Cazneau, with instructions to ascertain from the Dominican government the grounds on which its claim to the island is based. Awaiting his reply, your papers shall be filed.

I am, sir, your obedient servant,

JEREMIAH S. BLACK.

Messrs. PATTERSON & MURGUIENDO, *Baltimore, Md.*




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APPENDIX No. 37.

DEPARTMENT OF STATE,

*Washington, D. C., January 15, 1861.*

SIR: In your despatch No. 15, of the 17th of November last, you refer to the forcible occupation of the Island of Alta Vela by troops of the Dominican government, and the expulsion therefrom of persons engaged in procuring guano for a commercial house in the city of Baltimore.

You will at once, if you have not already done so, request the attention of the authorities to this event, and learn particularly the grounds upon which they claim jurisdiction of the island, in order that this government may know what measures are necessary to protect the interests of our citizens in that quarter.

I am, &c.,

JEREMIAH S. BLACK.

W. L. CAZNEAU, Esq.

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APPENDIX No. 38.

SANTO DOMINGO, *February 19, 1861.*

SIR: I have the honor to acknowledge the receipt of your despatch No. 7, January 15, respecting the forcible possession of Altavela by troops of the Dominican government of persons engaged in procuring guano for a commercial house in the city of Baltimore, and I will endeavor to place before you a distinct account of all the circumstances of the case, together with the reasons assigned by the Dominican government for its summary action in the premises.

Alto Velo is a small desert cay, lying, according to some charts, more than five leagues, and by the map of this island, published by order of the government, somewhat less than that distance, to the southward of that "border belt" which has been completely desolated by the wars between the Dominican and Haytien Republics. Neither government permits the citizens of the other to live on this frontier, and a long margin of the main land nearest to Altavela cay is a depopulated waste, without settled inhabitants, without cultivation, and in point of actual fact without a government.

The Dominican government claims this depopulated district because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855 it is defined as a portion of the province of Azua,

together with the adjacent islets, Beata and Altavela, which are there named as dependencies of that province. Except, however, in the descent of the war schooner *Merced* on the American guano diggers, last October, I cannot ascertain that this republic has ever exercised the sovereign duties of protection or government on either Beata or Altavela since it has been a nation. In discussing this point with the Minister of Foreign Affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying cays; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

The neighboring island of Beata has a scant supply of fresh water, of which Altavela is entirely destitute, and it is, therefore, occasionally occupied by the Haytien fishermen; but so far as I can learn, Dominicans rarely, if ever, venture there.

The Haytien authorities made a visit of inquiry to the Americans at Altavela very soon after they commenced work, five months before any Dominicans whatever seem to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Congress which protected another company at work on the similarly situated and not distant islet of Nevasa, the Haytien officer withdrew without offering them any molestation.

The American explorers had, in their repeated visits to the cay, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit, within the scope and meaning of the act of Congress of August, 1856, "to authorize protection to be given to citizens of the United States who may discover deposits of guano."

As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican Republic sovereignty over the entire coast opposite, had—after an official visit of inquiry, and with a full knowledge of their tenure of occupation—permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable—as I remarked to the Dominican executive—in supposing themselves in justifiable possession of the cay. If there could be any doubt of the completeness of their right of occupation, under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican Republic, which had never given them any intimation of its claims until the very day it sent a military expedition to dislodge them.

When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Altavela for seven consecutive months steadily at work, investing capital and labor in opening a small, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity—uncertain whether they were to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or men to be tried as criminals for some nameless and unexplained culpability.

To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Altavela.

W. L. CAZNEAU.

Hon. J. S. BLACK, *Secretary of State.*

Ex. Doc. 38—4

## APPENDIX No. 39.

JANUARY 25, 1866.

SIR: Enclosed find bond of claimants for Alta Vela, a guano island, which please to direct the filing of in the proper office.

J. S. BLACK.

SECRETARY OF STATE.

## APPENDIX No. 40.

Know all men by these presents, that we, Abram B. Patterson and Prudence de Murguiendo, [partners trading as Patterson & Murguiendo,] and Andrew C. Elliott, all of the city of Baltimore and State of Maryland, are held and firmly bound unto the United States of America in the sum of fifty thousand dollars, lawful money of the United States, to the payment of which sum well and truly to be made to the said United States of America, their certain attorney or assigns, we and each of us bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this thirteenth day of March, eighteen hundred and sixty-one.

Whereas the said Patterson & Murguiendo, discoverers [through their agent, Captain S. R. Kimball] of a deposit of guano upon the island or key of Alta Vela, in the Caribbean sea, desire to comply with the provisions of the act of Congress of eighteen hundred and fifty-six, chapter 164, approved August eighteenth, eighteen hundred and fifty-six, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," by filing a bond, as by the said act of Congress required; and whereas all the other requirements of the said act of Congress having been fully and in due form complied with, the President of the United States has designated the sum of fifty thousand dollars as the penalty of the said bond, and such sureties as shall be approved by the district attorney of the United States for the district of Maryland to be sureties thereupon.

Now, the condition of this obligation is such that if the said Patterson & Murguiendo, their representatives and assigns, upon being allowed, as by said act of Congress provided, the exclusive right of occupying said island or key of Alta Vela, for the purpose of obtaining guano therefrom, and selling the same to be used as in said act of Congress is further provided, shall deliver the said guano to citizens of the United States for the purpose of being used therein, and to none others, at a price not exceeding eight dollars per ton for the best quality for every ton thereof delivered alongside a vessel in proper tubs, within reach of ship's tackle, or four dollars per ton in its native place of deposit, and provide all necessary facilities for that purpose within such time as the President of the United States shall designate; and shall, in all other particulars, comply with the terms imposed upon parties to be allowed such exclusive right by the second section of the act of Congress aforesaid, in reference to and under which this bond is executed and is only to be binding and operative, then the above obligation shall be void; otherwise, to remain in full force and effect.

ABRAM B. PATTERSON.	[L. S.]
ALLEN A. CHAPRON.	[L. S.]
P'E DE MURGUIENDO.	[L. S.]
ANDREW C. ELLIOTT.	

Witnesses:

C. WESTON.  
A. R. KASIN.  
B. M. GRACEY.

DISTRICT OF MARYLAND, *to wit* :

Before me, the subscriber, personally appeared, this fourteenth day of March, eighteen hundred and sixty-one, P. de Murguiendo and Andrew C. Elliott, and made oath that they are worth, in the aggregate, fifty thousand dollars, to the best of their belief, over and above their just debts and liabilities.

JOHN HANAN,  
*United States Commissioner for the District of Maryland.*

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES,  
*April 6, 1861.*

I certify that the securities to the within bond are jointly sufficient to pay the penalty of the within bond.

WILLIAM MEADE ADDISON,  
*United States Attorney.*

## APPENDIX No. 41.

## ALTA VELA ISLAND.

The memorial of Patterson & Murguiendo, claiming damages for being dispossessed by the Dominicans of the island of Alta Vela, describes them as "having, in the month of February, 1860, discovered a deposit of guano on the islet of Alta Vela, *the same not being within the lawful jurisdiction of any other government.*"

This, if a direct averment, would conform to the act of Congress authorizing the taking possession of such islands. It is, however, put in the way of recital and introduction. I do not think that the memorialists understood themselves as swearing positively to the statement.

In a subsequent part of the memorial it is stated that the claimants "furnished to the State Department satisfactory evidence that such islet or key, known as Alta Vela, was not, at the time of the discovery thereof and at the time of the taking possession and occupation thereof by the firm, *in the possession or occupation of any other government*, or of the citizens of any other government." The exact statement in the affidavit filed by them of Captain Kimball, who made the discovery, is, "that at the time of his taking possession *there were no inhabitants or habitations* whatever thereon, or traces of any kind of there ever having been on the island."

Captain Miller, who was mate of the vessel in which the discovery was made, states, in an affidavit made subsequently, that they found "no inhabitants, no water, it being a desolate islet." He states that while he was there some months the only persons who visited it, except some American vessels and the Dominican man-of-war by which they were expelled, were fishermen in fishing boats from Jacmel, Hayti.

In a protest made by Captain Kimball, regarding the expulsion of the party left by him on the islet, he states it to be a desert key some fifteen or twenty miles outside of the most extreme southern point of the Dominican territory, and he states a belief, at the time of its discovery, from all the information then obtainable, that at no previous time had any nation ever occupied or exercised any jurisdiction over the islet. He also states that the *Haytiens* had been for years the sole occupants of the adjacent island of Beata.

In a letter written by Captain Kimball to our Consul at St. Domingo on the 30th of November, 1860, he states that he believed at the time of taking possession that it (Alta Vela) was not claimed exclusively *by either of the governments* of the island of St. Domingo, as "I know it to have been used by the citizens of both for many years as a fishing station."



This is all the evidence furnished by the claimants in respect to the questions of jurisdiction and occupation. I think the questions are distinct. Lawful jurisdiction—and this it is which the act of Congress requires to be negatived as a condition to the taking possession of guano islands—may exist though actual possession may not have been taken, or, if taken, has not been maintained. What kind of possession could be kept of a barren islet, destitute of water?

In the case of the *Anna*, (5 Ch. Robinson, 385,) Lord Stowell, speaking of some islands off the mouth of the Mississippi, uninhabited and resorted to only for shooting and taking birds' nests, says:

“Consider what the consequence would be if lands of this description were not considered as a dependent to the main land, and as comprised within the bounds of its territory. If they do not belong to the United States of America, any other power might occupy them; they might be embanked and fortified. What a thorn this would be in the side of America! It is physically possible, at least, that they might be so occupied by European nations, and then the command of the river would be no longer in America, but in such settlements.

“The possibility of such consequence is enough to expose the fallacy of any arguments which are addressed to show that these islands are not to be considered as part of the territory of America. Whether they are composed of earth or solid rock will not vary the right of dominion, for the right of dominion does not depend upon the texture of the soil.”

After referring to this, Halleck (page 131) says that another case, “involving the international right of domain and property, is that of islands in the sea which do not derive their elements on the principle of alluvium and increment immediately from the main shore, but are separated from it by deep channels of a greater or less width. Such islands, if in the vicinity of the mainland, are regarded as its dependencies, unless some one else has acquired title to them by virtue of discovery, colonization, purchase, conquest, or some recognized mode of territorial acquisition. The ownership and occupation of the mainland includes the adjacent islands, even though no positive acts of ownership may have been exercised over them.”

It is obvious that the question which, in Lord Stowell's judgment, is the controlling one, is, are the adjacent islands necessary to the security and protection to the mainland, so that their occupation by a hostile power would be dangerous? I think this the rational criterion. It is that upon which the range of cannon has been adopted as fixing the extent of jurisdiction beyond the coast over open water of the sea. But if beyond cannon shot of the shore an island be found, rocky, desolate, without water, but capable of being made auxiliary to operations of naval war—as a place of deposit for coal, for instance—I think no one would doubt that it would be weak temerity in the sovereign of the adjacent territory to permit its occupation; and it would, I think, be time enough for him to assert his right when he found some one attempting an occupation of a permanent character or under a claim of right.

That he did not drive off fishermen coming from the territory of another neighboring and friendly power should work no impeachment of his right.

It is impossible to fix a precise limit within which the right of jurisdiction from military considerations can be confined. The island of Nantucket, for example, is some thirty miles from the mainland, but if it were this moment wholly desolate and had been too barren to have ever been occupied otherwise than by the visits of occasional fishermen, we should no doubt see danger in an attempt to occupy it under color of right by Englishmen or Frenchmen in the name of their nation. So of the keys which skirt the southern point of Florida.

I do not know the distance of Alto Velo from the mainland, nor from Beata, which lies between. I gather, however, that there is no question of the jurisdiction of the Dominican Republic now, and of either that or Hayti for many years past, over Beata.

Alta Vela, judging from the charts, is near enough to Beata to be deemed an appendage to it, and so an appendage to the mainland, upon the principle that its occupation by strangers would menace the security of both. This appears to be the judgment of the Dominican authorities. They asserted their right as an occasion for it arose. It is for us to disprove it. Both the Secretary and Assistant Secretary of State, having seen these islands more than once, can appreciate better than myself the applicability and force of the considerations here presented. It is enough for me to say that, in my judgment, the memorial and evidence filed by the claimants do not disprove the lawful jurisdiction either of Hayti or Dominica. It is enough that *either* had it, to make it improper for the government to support the claimants in the demand for damages.

E. PESHINE SMITH,  
*Examiner of Claims.*

BUREAU OF CLAIMS, *June* 17, 1867.

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APPENDIX No. 42.

*Memorandum.*

JULY 18, 1867.

A report from the Bureau of Claims, concerning Alta Vela island, made on the 17th of June last, was submitted by the Secretary of State to the President in cabinet. The conclusions of the report were accepted by the President.

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APPENDIX No. 43.

WASHINGTON, *July* 22, 1867.

MR. PRESIDENT: I enclose you a brief from which you will learn without difficulty the facts of the claim made by Messrs. Patterson & Murguendo, of Baltimore, for restitution of the island of Alto Velo. My only request is that you read it, and then do what, in your judgment, is fit and proper.

The injury these parties complain of was committed more than seven years ago. They demanded the intervention of their own government immediately afterwards. They however consented not to press the subject at the time, lest it might aggravate the troubles of the country; but this was with the distinct understanding that the delay should not be charged upon them or allowed to affect their rights. Since the war the Department of State has exhibited so strong an inclination to do nothing that the sufferers are compelled at last to think of looking elsewhere for a remedy.

The wrong suffered by these men is so grievous, the illegality of it is so palpable, and the faith of the United States is so solemnly pledged to restore their property, that their *final* success in the pursuit of justice can hardly be doubted. The State Department has given no reason for its inactivity; we can only wonder what it means.

Patterson & Murguendo embarked their all in this enterprise; it was an enterprise not only lawful but laudable; they went into it under a solemn promise of protection; they were shamelessly robbed by men who had no color of right, and who acted without the show of excuse; they were utterly ruined, and their business totally broken up.

But if the wrongs of two individual Americans were not sufficient to call for redress, the public and general aspect of the case ought to be considered. When a citizen of the United States discovers a guano deposit on an unoccupied island, not within the jurisdiction of any other government, and the dis-

coverer takes the proper steps under the act of 1856, such island becomes annexed to the Union and part of the country. To expel the American occupant under such circumstances is like any other invasion of our territory; to submit is to acknowledge either our inability or our unwillingness to protect our own people. The insult to our flag is as gross as if it had been forcibly hauled down from the mast of an American ship, and the injury as plain as if the ship had been forcibly appropriated by a band of pirates.

You will see, I think, that all the conditions required by law to create the American title have been met in this case. It is a guano island. The deposit was discovered by American mariners; it was wholly unoccupied; it was not within the lawful jurisdiction of any foreign government, being situated out on the high sea; it was open to the first taker: it was in fact taken by these claimants. The claimants gave the proper notice at the State Department, and fulfilled whatever else was required by law. They continued with the full sanction of their own government, and with the tacit consent of all others, in full possession for seven months, and after all this they were forcibly and without even a pretence of lawful authority detruded. This expulsion was an outrage in itself, but the papers show that it was accompanied with circumstances of great aggravation. The agents, workmen, and employes of the claimants were carried to the island of St. Domingo, and kept in prison for twenty-one days.

What is now asked is, that you send a vessel to Alta Vela, and put Messrs. Patterson & Murguiendo into possession. This is the short and simple way of dealing with the business. Negotiations will be out of place until the parties are *in statu quo*. Re-possession under such circumstances is not only required by public law and in general principle as the first step to be taken, but it is made the duty of the government in this case by an express statute.

The act of 1856 requires the naval force of the United States to be used to maintain the American citizen in his possession. The right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized.

I am, with great respect, yours, &c.,

J. S. BLACK,  
*Counsel for Patterson & Murguiendo.*

His Excellency A. JOHNSON.

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#### APPENDIX No. 44.

##### BRIEF.

In February, 1860, Abram B. Patterson and P. de Murguiendo, merchants, of Baltimore, Maryland, doing business as Messrs. Patterson & Murguiendo, discovered a deposit of guano on the island of Alta Vela, in the Caribbean sea, latitude  $17^{\circ} 28' 11''$ , longitude  $71^{\circ} 40' 30''$ , lying fifteen or twenty miles beyond the most extreme southern point of Dominican territory. It was then totally barren and desolate, and had been previously altogether uninhabited and unclaimed by any state, people, or government. The firm accordingly took possession of it under the act of Congress of August 18, 1856, in the name of the United States, and took the necessary steps to bring themselves entirely within the protection of the act, by filing notice of the discovery and occupation with the State Department, and entering into the required bond.

The discovery of guano on this island was made by American citizens. The discoverer took, and kept, peaceable possession in the name of the United States. It was not taken out of the possession of any other government or people, occupied

by the citizens of any other government, or within the lawful jurisdiction of any other government. It was, therefore, precisely such an island as the law requires the President to regard as appertaining to the United States, and to protect accordingly.

After the detrusion of the Americans from the island, and while the employés of Messrs. Patterson & Murguiendo were detained *as captives* at St. Domingo, Captain Kimball, the general managing agent, published a formal and solemn protest to the Dominican authorities. Among the sworn and undisputed statements of that document are these: He visited Alta Vela in November, 1859, under general instructions to look for guano deposits. He found guano there, but he also found it a desert and uninhabited key. He returned with men and materials in March, 1860, and never heard of any objection from any quarter to the occupation of the island until the violent ejection *seven months afterwards*. He had been at this key in 1842, '43 and '44, and often after up to 1860, and never saw a Dominican citizen or official in that vicinity. The only persons they saw during the open landing and the seven months' stay at the island were *Haytiens* from the mainland and the *island of Beata*.

They claimed sovereignty over the nearest mainland, and for years were the only occupants of Beata, which was the nearest land to Alta Vela. Captain Kimball's affidavit, made in Baltimore, again recites the main facts of this protest. Captain Miller says, that during his stay at the island he saw none but *fishermen* from *Jaemel* and *Beata*. He unequivocally swears that "Beata is about ten miles from Alta Vela, and is *the nearest land to it*." "Beata is inhabited by the *Haytiens*, and *was so occupied while we were at Alta Vela*." He mentions an incident which accounts for the sudden claim of the Dominicans. The "*Merced*" carried the Americans off in October, 1860, but she had been there on the 4th of September previous, and landed an officer, who, when told that the Americans were occupying it as a *guano deposit*, begged *two bucketfuls to take away*, which specimens revealing the before unknown value of the island, no doubt caused the reappearance of the "*Merced*" and her act of plunder.

She then, on the 23d of October, 1860, landed an officer and party, who tore down the American flag, destroyed some of the property of the firm, and forcibly removed the rest, with their resident agent and laborers, to the city of St. Domingo. General Evertz took this violent course in no ignorance of our rights as discoverers, occupants, and Americans, but in open contempt of them. He was fully apprised of the nature of our title. A copy of the "guano act" was carefully exhibited to him, and he was thus informed that the honor and faith of the United States was, by express statute, as well as by the public law of the world, pledged to redress the wrong he was about to commit.

On the 18th of October, 1860, five days before the outrage was done, Mr. Cazneau, special agent of the United States, officially advised our consul at San Juan, Puerto Rico, of the intention of the Dominican government "to attack" a party of Americans who were undoubtedly lawfully engaged at Alta Vela, and the consul in town transmitted the warning to the consul at St. Thomas. These officers regarded the contemplated act as so clearly a deed of naked spoliation, that they used all their exertions to have an American man-of-war at the island in time to oppose force with force.

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#### APPENDIX No. 45.

WASHINGTON, August 7, 1867.

MR. PRESIDENT: A communication has been sent to me from the Department of State, enclosing what the Secretary calls a "memorandum" concerning the island of Alta Vela. This *memorandum* merely declares that you "accepted the conclusions of a report made by the Bureau of Claims on the subject of the island in question."

If this be allowed to pass without notice, it may be used hereafter as evidence that you concurred in an effort to justify the outrage committed on the owners of the island, and in the refusal or neglect of this government to give them the redress to which they are legally entitled. I beg leave, therefore, to submit a very few remarks on it.

The thing does not purport to be an Executive order; it is not signed, or otherwise authenticated; it is not a record or part of a record; it is called a *memorandum*. How, when, where, or by whom it was made does not appear. It proves nothing. It represents you as accepting the conclusions of a report, but the report is not given, and the conclusions of it are not stated. If you had ordered the claim of the owners to be dismissed or to be enforced, and had recorded your judgment either way, it would have been at least intelligible; but a statement that some unknown internal effect was produced on your mind under the influence of a report not given, is senseless when produced as evidence of an executive act.

The memorandum does not say what was the subject-matter of the report. It concerned the island of Alta Vela; but did it discuss the geography, the political jurisdiction, the commercial products of it, or did it investigate the rights of the American owners? If it was upon the latter question, did it conclude that the owners might be plundered by foreigners, or that they ought to be protected according to law?

I am aware that the solicitor of the State Department was engaged for months in getting up a paper on this case. By the present nomenclature of the Department the solicitor may, for aught I know, be a Bureau of Claims. I once saw an unfinished report in his hands, but he had reached no definite conclusions. If a loose memorandum can commit you to a report which is not identified or known, it may be tacked to any paper of that description, whether made before or afterwards.

Even the vague and indefinite statement of the memorandum that you accepted some conclusion of some report concerning the island of Alta Vela, is not true in point of fact. I bring no charges of wilful falsehood against anybody, nor do I know what was the nature of the misapprehension which caused the memorandum to be made. But the fact is not truly stated; my contradiction rests on these grounds:

1st. The memorandum says that you "accepted the conclusion" on the 18th of July. Only one day afterwards, namely, on the 19th of that month, I presented to you a memorial on the case, and explained it somewhat at large. You had then manifestly never heard of the matter before; it was entirely new to you.

2d. After I got this memorandum I told you of it, and you said emphatically that it never could have been officially before you in such a way as to make any impression on your mind.

3d. It is morally impossible that you, with the facts of the case before you, could have done otherwise than order the restitution of the island to its owners. You are wholly incapable of sanctioning, directly or indirectly, a naked robbery like this.

Some other occurrences connected with this business I forbear, at present, to mention. I have said enough to show you the necessity of your personal intervention to save the just rights of these parties. The records of the State Department for seven years have shown that the island was uninhabited, unoccupied, lying in the open sea, far beyond the territorial waters of Dominica. Patterson & Murguendo, of Baltimore, discovered it as a guano island, took possession, gave notice according to the act of Congress, and kept possession of it for seven months, when their employés and vessels were forcibly driven away and their business broken up.

I am, most respectfully, yours, &c.,

J. S. BLACK.

His Excellency A. JOHNSON.



## APPENDIX No. 46.

NEW YORK, *February 19, 1866.*

SIR: If consistent with your duties and compatible with the public interest, will you have the goodness to inform me, at your earliest convenience, what action, if any, was taken in a certain matter that I think was brought to the notice of our government some five or six years ago, regarding our right to work and remove the guano from the island of Alta Vela, lying some fifteen or twenty miles south of the island of St. Domingo, in longitude about six east from Washington. This latter island laid some claim to the guano there, (found originally by an American captain, under the auspices of a Baltimore, Maryland, house,) which claim of St. Domingo was contested by said house, and finally, as I believe, referred to your honorable Department for adjudication, and was in abeyance (after some diplomatic correspondence had taken place on the subject between the two countries) at the breaking out of the rebellion. My reasons for making these inquiries are that, understanding the island has not been worked for some years, and the deposits being peculiarly rich, I purpose sending one or more vessels there to bring home cargoes of said guano deposit, if I have the assurance of our right to it and of government protection in the prosecution of said work.

I have not made myself familiar with the pre-emption right, if any, of nations to discoveries of guano deposits, but believe that the flag that discovers has the right of it exclusively. This, and other questions relative to the subject, I would be pleased to be informed upon at your convenience.

With respect, I remain,

HENRY G. ROOT,  
*Box 439, New York Post Office.*

Hon. WILLIAM H. SEWARD,  
*Secretary of State.*

## APPENDIX No. 47.

DEPARTMENT OF STATE,  
*February 21, 1866.*

SIR: I have to acknowledge the receipt of your letter of the 19th instant, relating to the right of removing guano from the island of Alta Vela. There are already two parties claiming rights as discoverers of that island, and the right is denied by St. Domingo, whose authorities ejected them. The claim made by these parties for damages, covering the whole value of the guano, is still under consideration. If either of them should satisfy this government that their claim is just, and it should require indemnity from St. Domingo, that republic would seem, by making payment, to acquire a right to retain the guano, if it did not originally possess it.

Under these circumstances this government cannot encourage any of its citizens in resorting to the island, unless they obtain the consent of the authorities of St. Domingo. As it lies opposite to a boundary understood to be in dispute between that power and Hayti, it would be a reasonable precaution to seek the consent of Hayti also.

I am, sir, your obedient servant,

F. W. SEWARD,  
*Assistant Secretary.*

HENRY G. ROOT, Esq.,  
*Box 439 New York Post Office.*



## APPENDIX No. 48.

NEW YORK, *September 12, 1867.*

DEAR SIR: We notice a paragraph in this morning's paper relative to a claim before the State Department of a Baltimore firm against the government of St. Domingo, for being expelled from the island of Alta Vela. Under date of February 26, 1866, in reply to a letter from Mr. H. G. Root, you wrote it would be advisable for him to apply to the government of St. Domingo for the right to remove the guano from Alta Vela. Last year we obtained the consent of said government, and under date of April 24, 1867, informed you of said fact. We have already expended upwards of fifty thousand dollars (\$50,000) in the enterprise, and have a large force of men at work; many cargoes have already arrived at northern ports, and we are developing the resources of the island as rapidly as good judgment dictates. We have done so, feeling satisfied our government would acknowledge our right, particularly after informing us how to obtain it. Without trespassing further upon your time, awaiting your reply,

We remain, your obedient servants,

THOMAS R. WEBSTER & CO.,

36 South street.

HON. WILLIAM H. SEWARD,

*Secretary of State.*

## APPENDIX No. 49.

DEPARTMENT OF STATE,

*Washington, D. C., September 14, 1867.*

GENTLEMEN: In reply to your letter of the 12th instant, in relation to the guano deposit on the island of Alta Vela, I have to state that in the letter of the 21st of February, 1866, to Mr. H. G. Root, to which you refer, he was distinctly informed "there are already two parties claiming rights as discoverers of that island, and the right is denied by St. Domingo, whose authorities ejected them; the claim made by these parties for damages, covering the whole value of the guano, is still under consideration." The design and effect of that statement was to warn all persons to whose knowledge the letter might come that they would deal with the subject at their peril, and could acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing. Those rights have not yet been determined. If the claimants are found to have acquired the exclusive right to dig guano under the law regulating the subject, the subsequent grant to you by the Dominican Republic will not affect it, and this government will be under no obligation to aid you in enforcing, as against a foreign state, any rights which flow from a contract with it, into which you voluntarily entered.

Your obedient servant,

WILLIAM H. SEWARD.

Messrs. THOMAS R. WEBSTER & Co.,

36 South street, New York.

## APPENDIX No. 50.

NEW YORK CITY, 110 Broadway, *January 21, 1868.*

DEAR SIR: I notice in the New York papers that claims are being made by certain persons against the Dominican government, growing out of an alleged injury to persons and property by said government in 1860, upon the island of Alta Vela.

I have the honor to be the president of the Alta Vela Guano Company, a corporation created and doing business under and by virtue of the laws of the State of New York, and am instructed by the trustees thereof to state that this company have expended a large amount of money in the purchase of the grant or lease to take guano from said island, made by the government of the kingdom of Spain and confirmed and extended by the Dominican government, and that this company is now in the active prosecution of its business under these grants, which it has in its possession.

The company hope and ask to be advised by you of any necessity or occasion which requires an assertion of their rights in the premises.

Very respectfully, your obedient servant,

L. B. CLARK.

Hon. WM. H. SEWARD, *Secretary of State.*

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APPENDIX No. 51.

DEPARTMENT OF STATE,

*Washington, January 22, 1868.*

Mr. L. B. CLARK, 110 *Broadway, New York:*

I have received your letter of the 21st instant, and take notice of the statements therein contained, namely, that you are the president of the Alta Vela Guano Company, a corporation created and doing business under and by virtue of the laws of the State of New York; and that the corporation has expended a large amount of money in the purchase of the grant or lease to take guano from said island, made by the government of the kingdom of Spain and confirmed and extended by the Dominican government; and further, that the corporation is now in the active prosecution of its business under these grants, which grants it has in its possession.

If you think proper you may furnish this department with authenticated proofs of the statements which you have thus made.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

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APPENDIX No. 52.

REPUBLICA DOMINICANA.

EL TRIBUNADO USANDO DE SU INICIATIVA PREVIAS LAS LECTURAS CONSTITUCIONALES HA DADO LA SIGUIENTE LEY SOBRE LA ADMINISTRACION PROVINCIAL.

CAPITULO I.

*De las Provincias y de sus subdivisiones.*

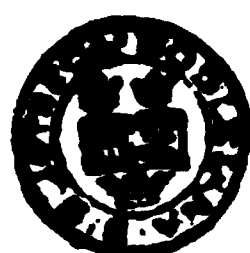
ART 1º. El territorio de la Republica Dominicana se divide en cinco provincias, segun lo tiene determinado la Constitucion, á saber: Compostela de Azua, Santo Domingo, Santa Cruz del Seybo, Concepcion de la Vega y Santiago de los Caballeros.

ART. 2º. La Provincia de Compostela de Azua, se subdivide en nueve comunes, y son, Azua, (cabeza de Provincia) Neyba, San Juan, Hinch, Las Matas de Farfan, Banica, Caobas, S. Rafael y S. Miguel.

El Puesto Militar de Barasona dependerá de la comun de Azua como mas inmediato y el Petitrú de la de Neyba.

Las islas adyacentes dependientes de esta Provincia son, la Beata y Alto Velo.

ART. 3º. La Provincia de Santo Domingo se subdivide en siete comunes que son, Santo Domingo, (cabeza de Provincia,) Bany, San Cristobal, los Llanos, Monte de Plata, Ballaguaná y Boyá.



**TITULO II.—De las Diputaciones Provinciales.**

**ART. 14.** Las Diputaciones Provinciales quedan organizadas conforme á lo artículos 147, 148, 149, 150, 151, y 152 de la Constitucion.

**ART. 15.** Los Secretarios de las Diputaciones Provinciales nombrados en virtud de la Constitucion reciben durante la sesion los sueldos siguientes.

En las Provincias de Santo Domingo y Santiago por la sesion 40 pesos.

En las de Azua, la Vega y Seybo por la sesion 30 pesos.

Estas dotaciones saldrán de los fondos publicos de la Provincia.

**ART. 16.** Las Diputaciones Provinciales se reunirán en los primeros quince dias de los meses de Junio y Diciembre. Sin embargo el Gefe Superior Politico podrá convocarla estraordinariamente en el intervalo de las sesiones.

**ART. 17.** Toda deliberacion de las Diputaciones Provinciales se hará á mayoría absoluta de votos.

**ART. 18.** El Tribunado ratifica ó anula las resoluciones de las Diputaciones Provinciales, segun el art. 156 de la Constitucion. Y al Congreso toca decidir definitivamente las diferencias entre las diversas Diputaciones Provinciales, entre estas y los Ayuntamientos, y entre las Diputaciones ó Ayuntamientos y el Gobierno.

**ART. 19.** Las atribuciones de las Diputaciones Provinciales están definidas por el artículo 154 de la Constitucion.

**ART. 20.** El Gefe Superior Politico, como tambien los miembros presentes en las sesiones deben firmar todas las actas de las deliberaciones de la Diputacion Provincial. Dichas deliberaciones serán inscriptas por su orden de fecha, en un registro numerado y rubricado por el Gefe Superior Politico.

**ART. 21.** Los fondos Publicos de cada Provincia serán propuestos annualmente por las respectivas Diputaciones Provinciales al Poder Legislativo, el que los votará conforme á la Constitucion. Durante el intervalo las Diputaciones Provinciales tendrán facultad de ordenar el empréstito de fondos de una comun, á la otra, para el servicio publico, siempre que los ingresos de esta escedan al egreso, no obstante el debido informe al Poder Legislativo en su proesima sesion.

**TITULO III.—De la Secretaría de los Gefes Superiores Politicos.**

**ART. 22.** Cada Gefe Superior Politico tendrá un secretario. Este empleado será nombrado por el Poder Ejecutivo y recibirá del Erario publico el sueldo siguiente.

En la Capital 480 pesos por año.

En la Provincia de Santiago 420 pesos por año.

En las Provincias de Azua, la Vega y Seybo 300 pesos por año.

Ademas de estos secretarios el Gefe Superior Politico, puede, si lo ecsige el servicio publico pedirle al Poder Ejecutivo un copista, que gozará de la mitad del sueldo asignado á los Secretarios.

**ART. 23.** Ninguno puede ser empleado á la vez en la Secretaria de un Gefe Superior Politico y en la de una Diputacion Provincial ó Ayuntamiento.

**ART. 24.** Los Gefes Superiores Politicos llevarán un ceñidor con los colores Nacionales y franja de canelon de oro.

Queda derogada toda Ley y disposicion que sea contraria, y será enviada al Consejo Conservador para su sancion segun lo determina la Constitucion.

Dada por la camara del Tribunado á los 28 dias del mes de Mayo del año de 1845 y 2º. de la Patria.

El Congreso Nacional, EN NOMBRE DE LA REPUBLICA DOMINICANA : ejecutese la *Ley sobre la Administracion Provincial*, que será enviada al Poder Ejecutivo para su promulgacion dentro de cuarenta y ocho horas.



**ART. 7º.** La Provincia de la Concepcion de la Vega, se subdivide en cuatro Comunes que son: la Vega, cabeza de Provincia, Cotuy, Macorís y Moca.

El Puesto Militar de Jarabacoa depende como mas inmediato, á la Comun de la Vega.

**ART. 8º.** La Provincia de Santiago de los Caballeros se subdivide en cuatro Comunes que son: Santiago, cabeza de Provincia, Puerto Plata, Monte Cristi y San José de las Matas.

Los Puestos Militares de esta Provincia son: Alta Mira, que corresponde á la Comun de Puerto Plata; Sabaneta, á San José de las Matas; y San Lorenzo de Gúayubin á la de Monte Cristi, que comprende todo el territorio que formaba antes la de Dajabon.

## CAPITULO SEGUNDO.

### *Del Gobierno Politico de las Provincias.*

#### TITULO PRIMERO.—*De los Gobernadores Politicos.*

**ART. 9º.** Cada Provincia será administrada por un Gobernador Politico, que representará al Poder Ejecutivo, y tendrá su domicilio en la cabeza de Provincia.

**ART. 10.** El Gobernador Politico ejercerá sus funciones conforme á los art. 105, 106 y 161, de la Constitucion.

**ART. 11.** Tiene las atribuciones siguientes:

1º. La publicacion de las actas y disposiciones del Gobierno.

2º. La ejecucion de las Leyes Electorales.

3º. El ejercicio de la policia general, y la ejecucion de todas las Leyes, Decretos y Reglamentos en la extension de su Provincia.

4º. El libramiento y vigilancia de los permisos, pasaportes, y otras licencias autorizadas por la Ley,

5º. La instalacion de los funcionarios-públicos, los cuales prestarán juramento ante él, cuando la Ley otra cosa no determine.

6º. La vigilancia, organizacion y administracion de la Guardia Cívica conforme á la Ley á ella relativa, y de los Cuerpos de Policia en las Comunes de la Provincia.

7º. La ejecucion de las Leyes sobre el alistamiento del Ejército y sobre todos los negocios en que intervenga la autoridad civil.

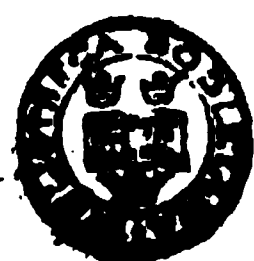
8º. La inspeccion de las cárceles y otros establecimientos públicos.

**ART. 12.** El Gobernador Politico cuida y dirige la Administracion rural, los trabajos de Agricultura, ejecuta las órdenes que contengan donativos y recompensas nacionales, inspecciona los puentes, bareas, y toma todas las medidas que crea conducentes, de acuerdo con la Diputacion Provincial, para mejorar el estado de los caminos; vigilará los trabajos de la Provincia, segun las Leyes y Decretos, ó en ejecucion de las ordenanzas de la Diputacion Provincial.

**ART. 13.** El Gobernador Politico, deberá hacer cada semestre una visita á las Comunes de su Provincia; oirá las quejas que se le dirijan contra todos los funcionarios públicos por falta de cumplimiento á sus deberes, y a en lo que dependa de él, como en los abusos que puedan cometerse por los Magistrados en el órden judicial ó municipal. En los primeros quince dias subsecuentes del mes en que hiciere la visita, remitirá al Poder Ejecutivo una relacion circunstanciada del estado de los caminos, cárceles y agricultura, y de las mejoras que á su juicio puedan llevarse á efecto.

§ Unico. Sin embargo el Poder Ejecutivo queda facultado para dispensar una de las visitas cuando lo juzgue oportuno. Queda asimismo autorizado para ordenar el reembolso de los gastos que á su juicio estime necesarios indemnizar á los Gobernadores Politicos por sus visitas, los que serán satisfechos de la suma votada para gastos extraordinarios del Ministerio del Interior, Policia y Agricultura.





lo determine la Corporacion; y será responsable de las cantidades que se le entreguen.

ART. 26. Cada trimestre se hará un tanteo de la Caja de la Diputacion, por una Comision compuesta del Gobernador Politico, que la presidirá, de los miembros de la Corporacion que se hallen presentes y del Corregidor y Alcalde Constitucional, ó de quien éste delegue para su reemplazo.

**TITULO TERCERO.—De la Secretaria de los Gobernadores Politicos.**

ART. 27. Cada Gobernador Politico tendrá un Secretario, este empleado será nombra por el Poder Ejecutivo, á propuesta del Gobernador y retribuido por el Erario Público.

ART. 28. Ninguno podrá ser empleado á la vez en la Secretaría de un Gobernador Politico y en la de una Diputacion Provincial ó Ayuntamiento.

ART. 29. Queda derogada la Ley sobre Administracion Provincial dada por el Tribunado en fecha 28 de Mayo de 1845, y toda otra disposicion que sea contraria á la presente Ley, la que será enviada al Senado para los fines Constitucionales.

Dada por la Cámara de Representantes á los treinta y un dias del mes de Agosto del año mil ochocientos cincuenta y cuatro y undécimo de la Patria.—El Presidente de la Cámara, *Felipe Perdomo*.—Los Secretarios, *N. Ureña*, *J. Antonio Pina*.

Comuníquese al Poder Ejecutivo para su promulgacion y ejecucion.

Dada en Santo Domingo de Guzman á los treinta y un dias del mes de Agosto del año mil ochocientos cincuenta y cuatro y undécimo de la Patria.—El Presidente, *José M. Morales*.—El Secretario, *Joubert*.

Ejécútese, comuníquese por la Secretaría del ramo, publicándose en todo el territorio de la República para su cumplimiento y observancia.

Dada en el Palacio Nacional á los cinco dias del mes de Setiembre de 1854 año once de la Patria.

SANTANA.

Refrendado:  
El Ministro del Interior,  
Polícia y Agricultura.

DOMINGO DE LA ROCHA.

**ANSWER TO THE REPORT OF THE SECRETARY OF STATE.**

WASHINGTON, D. C., *February 7, 1868.*

MR. PRESIDENT: After many years of anxious expectation, the American claimants to the island of Alta Vela are gratified by the receipt of the final report of the Secretary of State upon the subject of the claim in question.

In explanation of the extraordinary period of time permitted to elapse by the department without giving this pressing claim its attention, we are informed by the Secretary that the then President considered that "the time was unpropitious to prosecute the claim of Patterson and Murguiondo, *however just it might be*," and gave "direction" that it should not receive "attention," though his order is not given among the papers.

Again we are told that "proceedings were suspended," because, since the close of our own war, the government of St. Domingo had been occasionally revolutionized, had represented itself to the United States as weak and unstable, and "*requested a loan of money*;" and, under these circumstances, the United States had opened a negotiation with her "concerning the cession of the penin-

sula of Samana, which failed during the summer of 1867." Nothing was done from the time of that failure to the present, when, as a bar to proceedings again, the Secretary says: "The political condition of the republic of San Domingo has not essentially improved. It is still feeble, destitute of resources and credit, and a theatre of military revolution. A special envoy is now here soliciting financial and moral assistance." Upon this interesting summary of the condition of the government which insulted, outraged, and plundered us, the Secretary concludes that it would still be "*inexpedient*" to enforce our rights, "even if the justice of the claim of Patterson and Murguiondo were *clearly and conclusively established*." Of course we do not propose to *discuss* these views of the Secretary, though he himself seems to lay great stress upon them. Their simple re-statement in a condensed and naked form will serve our purpose. Were we to institute a grave and serious *argument* to prove that they are unworthy of your consideration, we would humiliate ourselves as citizens of the United States, and be guilty of a disrespect to its Chief Magistrate, which we are not disposed to commit. We shall, therefore, pass by this feature of the "report" with the single remark that, should this new theory prevail in the conduct of our foreign affairs, it may be difficult hereafter to obtain the adjustment of any dispute, or the satisfaction of any injury; for, though our territory may be wrested from our jurisdiction, our flag displaced by any rag that floats, our citizens robbed and imprisoned, and our vessels detained by force in foreign ports, it will only be necessary, to defeat our just demands for redress, that the aggressor should "request a loan of money," or offer to sell us something. No instance is related in the books, nor have we learned of one from any other source, where any of the sovereign powers of the earth have taken a proposition to borrow money, or to sell something as an atonement for an act of armed and premeditated violence to its flag, accompanied by the seizure of its territory and the plunder and imprisonment of its people.

The unhappy condition of St. Domingo may well excite the individual compassion of the Secretary, but the fact that it is the scene of perpetual violence and lawless contention, makes it all the more important that the authority of the United States should be put forth, in an unmistakable manner, to save our rights and interests from violation by the chances of this ceaseless and barbarous warfare.

You will perceive, Mr. President, throughout this entire report, a most singular disinclination, on the part of the Secretary, to aid the claimants in the pursuit of their rights—a sentiment so painfully manifest that we cannot overlook it, though wholly beyond our power to explain. He spares us all doubt as to the issue before the department by a declaration preceding any examination of our claim, that, however "*clearly and conclusively established*" it may be, and as a consequence, "*however clearly and conclusively established*" may be the wrongs and insults inflicted upon the United States, the Secretary particularly charged with the protection of her honor, and the maintenance of her rights, deems it "*inexpedient*" to take any steps for defence, redress, or restitution. In this report, which purports to contain all the correspondence in relation to Alta Vela, we do not find the report of Mr. Patterson, despatched by Secretary Black on a special mission to St. Domingo, nor the letter of Mr. De Ronceray, our consul at San Juan, Puerto Rico, both of which are material to a correct understanding of the case. The letter of Mr. De Ronceray, filed by the claimants, will show the premeditated character of the outrage committed by the Dominican government, and that our consular agents considered it so clearly an act of lawless spoliation, that they endeavored to prevent it by the armed forces of the United States. Mr. Patterson's report, we believe, embodies, substantially, the same facts as Mr. Cazneau's despatch of February 19, 1867, (Appendix 38,) and proves, further, that the expulsion of the American colony from Alta Vela was the result of a Spanish intrigue, the object of which was to ap

propriate St. Domingo as a province of Spain, to be devoted to the perpetuation of African slavery, and which could not, therefore, tolerate the near proximity of the American flag. There is also wanting a letter or two of claimants' attorneys, addressed to the department, which set forth our views as to the proper *mode of redress*. Of this circumstance we should make no complaint, did it not give room to suspect that, in some word or line of an absent paper, there might be found the least authority for the subjoined astonishing statement of the Secretary, which will be found on page 12 of the printed report, with a heading of staring capitals: "It has already appeared that Patterson and Murguiondo distinctly disclaim any expectation or desire that the Executive of the United States shall apply to the republic of St. Domingo for indemnity or any form of redress sounding in damages in their behalf." Singularly enough the Secretary follows up this remarkable declaration by a quotation from Mr. Black's letter of July 22, 1867, (Appendix No. 42,) upon which he *actually seems to rely* for support. To show that this is exactly the "decision" in which we did *not* "acquiesce," we reproduce the passage: "What is *now* asked is, that you send a vessel to Alta Vela and put Messrs. Patterson and Murguiondo into possession. This is the short and simple way of dealing with the business. Negotiations will be out of place *until* the parties are in *statu quo*. Repossession under such circumstances is not only required by public law, and, on general principle, as the *first* step to be taken, but it is made the duty of the government, in this case, by an express statute. The act of 1856 requires the naval force of the United States to be used to maintain the American citizen in his possession. The right or the duty to repel force directed against a possession always includes the right to retake it after it has been unlawfully seized." It cannot be doubtful that, if we are entitled to anything, we are entitled to immediate possession of this island; and, if we are entitled to the island, even the Secretary of State will find it hard to dispute our right to indemnity for a forcible and ruinous expulsion, followed by seven years of continuous spoliation by our adversary. Even had Patterson and Murguiondo been foolish enough to relinquish their clear and perfect claim to damages, the *government* could not abandon it without shameful dishonor. The wrong done to these citizens was a wrong done to the State which owed them protection, even greater than to them; and, if the authority of that State is to be violated by whomsoever wills, as Secretary Cass held in a case precisely similar, "the character of an American citizen will cease to command respect, and it will be little else than a mockery to invoke the protection of the American flag." But there is not a syllable in all this correspondence to indicate that Patterson and Murguiondo ever remotely dreamed of abandoning their claim for damages. On the contrary, that claim, made out as minutely and circumstantially as the knowledge they possessed in 1860 enabled them to make it, has always been, and is now, on file in the State Department. But, "what is *now* asked (and we repeat it in the charitable hope that there may be no further misunderstanding) is, that you send a vessel to Alta Vela and put Messrs. Patterson and Murguiondo into possession."

We find in this report a notice, and a letter or two of one W. T. Kendall, paraded as a *bona fide* claim to the guano of Alta Vela. It never could have been made in good earnest, for it was simply a ridiculous assumption, abandoned almost as soon as made, and never heard of afterwards. Kendall's notice of discovery and Patterson and Murguiondo's are of even date; but the latter informed the department that they would have forwarded theirs on the 29th of April previous, but that they waited for original letters from the captain, of which they had received duplicates. It seems that these originals were sent by the hands of Kendall's captain, and, in the language of the notice, did "not come to hand for some unaccountable and unexplained reason." Kendall's subsequent short-lived pretensions entirely removed the mystery. Captain Kimball knew of the deposit of guano in 1859, and had taken actual possession of it for Patterson

and Murguiondo in February, 1860—a full month before Kendall thought of setting up his ephemeral pretence of a discovery.

But Kendall's claim being absurd upon its face, abandoned by himself, neither heard nor thought of for the last eight years, the Secretary introduces what he is pleased to call a "new and distinct claim" by the "Alta Vela Guano Company." He is again in error as to matter of fact. This is not a "new and distinct claim," unless *any claim* by the government of St. Domingo may be considered "new and distinct"—for the parties who make it pretend to nothing but a lease from that government. St. Domingo, having ousted the lawful occupants by force, grants to certain other persons the privilege of deporting our property, and when these latter came before the department, pleading in their behalf the amiable concessions of the despoiler, we are triumphantly told of the discovery of a "new and distinct claim." In one sense it is "new," though not very "distinct;" for it is the first time, in all the history of this case, that the Dominican government, or anybody for it, or in its name—save and except only the American Secretary of State—have asserted title of any sort to this island. There is every reason to believe that the "Alta Vela Guano Company" are none other than the successors of T. R. Webster & Co., speculators, who operate upon a lease supposed to have been extracted from the government of San Domingo by Spanish influence, and who were informed by the Secretary in September, 1866, that "they would deal with the subject at their peril; and that they would acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing," &c., &c.

Among the bold display headings which mark the numerous divisions of this report, and which, if designed to discredit the case of Patterson and Murguiondo, are arranged with great artistic skill, your eye will readily catch this one: "*Claim disallowed.*" It will be seen by reference to Mr. Black's letter of August 5, 1867, (Appendix No. 45,) that this is a grievous error. This claim has never passed to a decision by any competent authority. No legal or sufficient notice has ever been served upon us, or our clients, of any action whatever by the President of the United States, who alone is charged by law with the determination of the matters in dispute. The Secretary, doubtless, proposed to himself the pleasure of aggrandizing a foreign power by the denial of plain justice to our own people, as he distinctly informs us in various parts of this paper; but his wishes, however warm, could not pass into a decree without the sanction of the President. In this connection we respectfully refer to the certificate of John F. Coyle, hereto appended, and which raises a strong presumption that, on the 13th of September, 1867, the Secretary himself was unaware of the fact that the claim had been "disallowed," whereas the date of this pretended decision is the 18th of July previous.

The Secretary seems to anticipate that his tender appeals in behalf of the unhappy republic of St. Domingo, his diversion in favor of the departed Kendall, and even the "new and distinct" claim of the "Alta Vela Guano Company," may avail nothing against your sense of duty, or alter your determination to maintain the honor of the United States and the rights of its citizens. He therefore advances, on page 14, a fresh assumption, and brandishes his new weapon with such intrepid confidence that we cannot but believe him in earnest, and thoroughly convinced that he has demolished the last excuse for Executive interference with our interesting Dominican robbers and jailers. Here you are informed that Thomas R. Webster & Co. having obtained permission of St. Domingo to carry away our property, the question resolves into "a conflict between citizens of the United States;" that it is "purely a legal controversy," and "only *incidentally* a national one;" that the courts of the country are clothed with jurisdiction over the subject-matter, with power to execute their judgments. We have no desire to mislead you, Mr. President. We have made a fair statement of the argument, and we assure you that it occurs in no letters by Kendall,



Root, or Clarke. If you turn over but a few leaves more you will find attached the genuine signature of the Secretary of State. This singular idea never struck Kendall in the maddest moment of his brief strut before the department, while Root, Webster, and the "Alta Vela Guano Company" have all modestly declared that they have, and *can have*, no rights which are not derived from the aggressor against whom we propose the reclamation. It appears to have been a late conception of even the ingenious mind which brought it forth; for, on the 14th of September, 1867, the Secretary himself admonished Webster & Co. in the following terms, (Appendix No. 49:)

DEPARTMENT OF STATE,  
Washington, D. C., September 14, 1867.

GENTLEMEN: In reply to your letter of the 12th instant, in relation to the guano deposit on the island of Alta Vela, I have to state that, in the letter of the 21st of February, 1866, to H. R. Root, to which you refer, he was distinctly informed "there are already two parties claiming rights as discoverers of the island, and the right is denied by St. Domingo, whose authorities ejected them; the claim made by these parties for damages, covering the whole value of the guano, is still under consideration." The design and effect of that statement was to warn all persons to whose knowledge that letter might come that they would deal with the subject at their peril, and could acquire no rights which would not be subordinate to those which the other claimants might succeed in establishing. Those rights have not yet been determined. If the claimants are found to have acquired the exclusive right to dig guano under the law regulating the subject, subsequent grant to you by the Dominican republic will not affect it, and this government will be under no obligation to aid you in enforcing, as against a foreign state, any rights which flow from a contract with it, into which you voluntarily entered.

Your obedient servant,

WILLIAM H. SEWARD.

Messrs. THOMAS R. WEBSTER & Co.,  
36 South street, New York.

Is our remedy against the adverse possession of St. Domingo to be had in an action of ejectment, or should a *quo warranto* be addressed to President Cabral, if that gentleman is still in power? Shall we lay an injunction upon the Dominican official under whose direction the guano is being dug and shipped? And if any of these, how, and with the aid of what sort of a *posse*, shall the marshal serve the processes, and execute the judgments of the court? In short, this is not "incidentally," but originally and wholly a question between the two nations, with which the judiciary have nothing on earth to do, but which must be determined entirely by the political department of the government. The act of Congress does say that crimes committed upon the island shall be punished under the laws of the United States, as though committed on the "high seas" on board "a merchant vessel belonging to the United States;" and it is perhaps from this clause that the Secretary derives the fancy that the "courts are expressly clothed" with the novel power which he attributes to them. But this island was forcibly seized from the United States seven years ago. Our citizens, peaceably engaged, were kidnapped by St. Domingo, and transported to a distant prison; and we are not aware that the processes of the federal courts run in that locality at the present time.

The Secretary makes the point that the bond of Patterson and Murguiondo was not filed till 1866; and says, as if conscious of its weakness, that he "might be unwilling to insist peremptorily on this position, but he thinks it his duty to stand upon it until a different construction of the act shall have been pronounced by the courts or declared by Congress." Here, again, we are quite certain that he misapprehends the spirit and the letter of the law. The first section of the act says, that when a deposit of guano shall be discovered on certain islands, and the discoverers, being American citizens, have filed the proper notice of the fact, with evidence that it was not, at the time, in the jurisdiction, possession, or occupation of any other State, then (from that time forward) it might be "considered as *appertaining to the United States*." The second section says



that such *discoverers* "may, at the pleasure of Congress, be allowed the *exclusive right of occupying said islands*, provided they shall enter into bonds to sell the guano nowhere but in the United States"—and to do so under certain regulations. Patterson and Murguiondo might discover, give notice, and have the lawful right to enter upon the use of the guano, but it will scarcely be held that they were in anywise bound to file a bond not to sell it outside of the United States, when, in consequence of a piratical eviction by St. Domingo, they were not permitted to load a single pound for *any* market, or to show their flag, or strike a shovel anywhere on the island. But this, at all events, is a question of no moment in the controversy as it now stands, for that part of the act which requires bond, and limits the sale, was repealed in 1866. Viewed in another light, the "position" is even more untenable. Suppose Patterson and Murguiondo *had* failed to comply with an essential particular of our internal regulations, would that circumstance defeat the rights of the *nation* whose flag made the discovery, and into whose jurisdiction the island was solemnly taken by the act of occupation? And further, would it affect the duty of the nation to defend itself, its flag, its honor, to retake territory in the unlawful occupancy of another power, and to demand redress for the wrongful imprisonment of its citizens and the forcible detention of its ships? Were it even possible that Patterson and Murguiondo had forfeited all their individual rights by an error of their own, it furnished no excuse for subjecting the United States to injury and disgrace, such as it has never received without presenting the alternative of immediate reparation, or immediate war.

We have now, Mr. President, cleared this plain and simple claim of all frivolous objections of the Secretary, and effectually dislodged him from all his positions taken up avowedly for the express purpose of preventing any Executive action. He has succeeded in imposing upon us a vexatious and degrading task; he has succeeded in giving over our property to a few more months of plunder; and he has, thus far, admirably prevented an assertion of the dignity and honor of our common country, to the great profit and satisfaction of the nation which tore away her flag and usurped her sovereign rights. He calls this *policy*, and such it may be, but he should do the public the justice to acknowledge that it is a policy peculiar to himself. It is rather a *want* of policy, not less than of justice and honor, which could result in nothing but shame to the name of the United States whenever invoked by its injured citizens, and ruin to every commercial interest which is covered by our flag. There is not a common seaman of our marine who would not blush to whisper such "expediency" to his comrade. We, therefore, approach the discussion of the real merits of our case with supreme pleasure.

But before proceeding we are compelled, once more, to ask your particular attention to the strange character of the conflict which the Secretary of State is urging against the rights of the claimants.

St. Domingo, though repeatedly requested to define her claims (if she had any) to this island, has yet to advance the first pretence of legal title. The armed assault upon our peaceful colony, the contemptuous expulsion of our flag, and the subsequent violence to our citizens, constitute the only assertion of St. Domingo's right to this appendage of the United States of which we have any knowledge. You will carefully note Secretary Black's instructions of January 15, 1861, (Appendix 37,) to special agent W. L. Cazneau: "You will, at once, (says he,) if you have not already done so, request the attention of the authorities to this event, and *learn particularly the grounds upon which they claim jurisdiction* of the island, in order that this government may know what measures are necessary to protect the interest of our citizens in that quarter." Mr. Cazneau replies: "When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Alta Vela for several consecutive months, steadily at work, investing capital and labor in

opening a small, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity, uncertain whether to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or as men to be tried as criminals for some nameless and undefined culpability.

"To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Alta Vela.

W. S. CAZNEAU."

"Hon. J. S. BLACK,  
*Secretary of State.*"

St. Domingo failed upon this direct application to set forth any claim; and, if she had ever done so since, it is fair to presume that we would not be left in ignorance of the fact. But, after the lapse of seven years—years of patient endurance to the claimants, broken only by their imploring appeals to the justice of their own government—the American Secretary of State sets up a claim *for* St. Domingo which even she had not the effrontery to make for herself. It is a spectacle never before witnessed in the history of our foreign relations, and one which cannot be specially pleasing to the American people who have so much at stake in the preservation of their commercial rights throughout the West Indies.

The basis of the claim thus made out by the Secretary of State in behalf of St. Domingo, in default of a better one being presented by herself, is, beyond doubt, the most remarkable part of this very remarkable report. It consists of two historical facts, which we are not likely to dispute:

1. Sundry laws of St. Domingo have named Alta Vela as belonging to the republic.

2. Columbus discovered it.

St. Domingo *might* have enumerated the Western Continent as among her dependencies, but that circumstance would by no means have completed her title. In these very laws she claims sovereignty over a province, and an island, which are no more within her jurisdiction than Alta Vela itself. Should our government *adopt* the modest principle of conceding away whatever property of the nation may be found to be, or to have been, enumerated among the dependencies of any foreign power, we will have found a most expeditious way of disposing of the fifty-eight guano islands now worked under the national flag, and even our title to the thirteen original States of the Union would become a little doubtful. But your time is valuable, Mr. President, and we are not permitted to waste it in an unnecessary discussion. We therefore leave the Secretary of State, so far as this point is concerned, to the emphatic and overwhelming refutation of the special agent of the department in St. Domingo, who is not so entirely in the interest of that country. He says, (Appendix 38:)

SANTO DOMINGO, *February* 19, 1861.

SIR: I have the honor to acknowledge the receipt of your despatch No. 7, January 15, respecting the forcible possession of Alta Vela by troops of the Dominican government of persons engaged in procuring guano for a commercial house in the city of Baltimore, and I will endeavor to place before you a distinct account of all the circumstances of the case, together with the reasons assigned by the Dominican government for its summary action in the premises.

Alta Vela is a small desert key, lying, according to some charts, more than five leagues, and by the map of this island, published by order of the government, somewhat less than that distance, to the southward of that "border belt" which has been completely desolated by the wars between the Dominican and Haytien republics. Neither government permits

the citizens of the other to live on this frontier; and a long margin of the mainland nearest to Alta Vela key is a depopulated waste, without settled inhabitants, without cultivation, and, in point of actual fact, without a government.

The Dominican government claims this depopulated district because it is within the line of the old Spanish colony, which now constitutes the territory of this republic. By a law of 1855 it is defined as a portion of the province of Azua, together with the adjacent islets, Beata and Alta Vela, which are there named as dependencies of that province. Except, however, in the descent of the war schooner *Merced* on the American guano diggers, last October, I cannot ascertain that this republic has ever exercised the sovereign duties of protection or government on either Beata or Alta Vela since it has been a nation. In discussing this point with the minister of foreign affairs, I requested him to cite an instance in which a *de facto* jurisdiction had been extended over these outlying keys; but he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces.

The neighboring island of Beata has a scant supply of fresh water, of which Alta Vela is entirely destitute, and it is, therefore, occasionally occupied by the Haytien fishermen; but, so far as I can learn, Dominicans rarely, if ever, venture there.

The Haytien authorities made a visit of inquiry to the Americans at Alta Vela very soon after they commenced work, five months before any Dominicans whatever seemed to have approached the place. On being informed that an American guano company had taken possession of it under the same act of Congress which protected another company at work on the similarly situated and not distant islet of Nevassa, the Haytien officer withdrew without offering them any molestation.

The American explorers had, in their repeated visits to the key, always found it desolate, unused, and, to all appearances, outside of that care and charge which is the usual evidence of settled jurisdiction with any recognized government, and they publicly entered upon its possession as a guano deposit, within the scope and meaning of the act of Congress of August, 1856, "to authorize protection to be given to citizens of the United States who may discover deposits of guano."

As the government of Hayti, which exercises the only visible jurisdiction in that neighborhood, and disputes with the Dominican republic sovereignty over the entire coast opposite, had—after an official visit of inquiry, and with a full knowledge of their tenure of occupation—permitted the guano company to continue their business without remonstrance, our citizens were not inexcusable—as I remarked to the Dominican executive—in supposing themselves in justifiable possession of the key. If there could be any doubt of the completeness of their right of occupation, under the act of Congress before cited, they seemed entitled to consider themselves tenants-at-will of the government of Hayti, rather than trespassers on the soil and sovereignty of the Dominican republic, which had never given them any intimation of its claims until the very day it sent a military expedition to dislodge them.

When this occurred I did not fail to inquire of the Dominican authorities why they had permitted these citizens to remain on Alta Vela for seven consecutive months steadily at work, investing capital and labor in opening a small, unbroken guano field, and preparing it for extensive and profitable development, without warning them of the claims now put forth by their government, and why, instead of allowing them a calm and legal hearing, these men were carried away by a sudden military assault on their persons and flag, destroying much of their property, and bringing the parties to this city in an undefined captivity—uncertain whether they were to regard themselves as prisoners of war, though in a time of profound peace between their respective nations, or men to be tried as criminals for some nameless and unexplained culpability.

To these questions I was never able to obtain a lucid and satisfactory answer; but I am conscious that my remonstrances had the effect of deciding this government to abstain from following up the harsh measures initiated at Alta Vela.

W. I. CAZNEAU.

Hon. J. S. BLACK, *Secretary of State*.

In support of the second allegation advanced in favor of St. Domingo, the Secretary has spread before you a vivid and touching narrative of the adventures of Christopher Columbus, which may be obnoxious to the heirs of Washington Irving, but it certainly has nothing to do with this case. The Pope's bull and the will of Columbus are a quaint and curious species of literature, with which a Secretary may well amuse his leisure hours, but their legal force upon the question at issue is not at all apparent. We would suggest, however, that if St. Domingo is to come in "by the grace of God," or as the sole legatee of Columbus, she has been remiss in not reciting, among her dependencies, all the West India islands, if not the balance of the western world; and the United States have just been making a fraudulent bargain for the island of St. Thomas behind the back of the real owner. In the Aves case you will recollect that Venezuela, having no better friend than Mr. Marcy or Mr. Cass in the Wash-

ington cabinet, was compelled, in her distress, to set up, through her own minister of foreign relations, this very pretension—that title vested in her as the successor of Spain. Mr. Eames, our minister at Caraccas, replied, (page 236 of the printed correspondence :)

Of such a pretension of Venezuela to title in the Aves prior to 1854, nothing more remains, in the judgment of the undersigned, to be said, save this: that such a pretension, not having sufficient foundation to form a profitable subject of speculative historical disquisition, has no appropriate place in a discussion between governments, and when alleged in justification or excuse of a serious outrage upon citizens of the United States, cannot justly claim further consideration.

In another place (page 211) he says of it:

Such a doctrine, opposed alike to private right and public law, and carrying on its face its own condemnation, cannot be made by the undersigned in this case a subject of discussion. Should such doctrine be formally advanced by the government of Venezuela, in bar of this claim, the duty of the undersigned will be limited to the announcement of that fact to his government. In view of the settled policy of the United States, as established in ancient usage, recognized by other powers, and reaffirmed by recent legislation, the maintenance of such doctrine by any power, and its persistent application against citizens of the United States, are not perceived to be compatible with the maintenance of peaceful relations.

These observations of the minister received at the time the special and unqualified approbation of this government; and yet American claimants are now compelled to meet the annunciation of a doctrine by their own Secretary of State, which, if put into the mouth of a foreign power, has been adjudged sufficient occasion for a general war.

Claimants under the act of 1856 acquire title not by the discovery of the *island*, but by the discovery of a *guano deposit*, and they "must file satisfactory evidence that such island, rock, or key was not, *at the time* of the discovery thereof, in the "*possession or occupation*" of any other government." Alta Vela was not "*at the time*," and never had been in the "*possession or occupation*" of St. Domingo. It was a desert when the hero of the Secretary's tale anchored there centuries ago, and a desert it has been ever since. It was without water or vegetation; and until the Americans found and developed its rich deposits of guano, it was supposed by all the world to be as worthless in fact as it was repulsive in aspect. Other persons had examined it for guano without success, among whom you will see, by the testimony in the Aves case, was Captain Gibbs, of Boston. Neither Hayti nor St. Domingo had the least suspicion of its wealth. Citizens and officials of both countries came there long after the American occupation, and were astonished when told that beneath its sands were vast stores of this valuable material. The officers of the Dominican war schooner Merced begged two buckets-full of it to carry away as samples, and it was this very vessel that returned, a month after, to drive away our unoffending people.

'The "guano act" is in plain accord with the doctrines of public law universally acknowledged. We enforced its principle in the Aves case before and in the Navassa case after its passage. "The maritime territory of every State extends to the ports, harbors, bays, mouths of rivers, and adjacent parts of the seas included by headlands belonging to the same State." The general usage of nations superadds to this extent of territorial jurisdiction a marine league, or as far as a cannon shot will reach along the coasts of the State. (Wheaton, p. 233.) "The rule of law on this subject is, *terra dominium finitur ubi finitur armorum vis*; and since the introduction of fire-arms that distance has usually been recognized to be about three miles from shore." (Idem, page 234.) "At present the whole space of the sea within cannon shot of the coast is considered as making a part of the territory, and for that reason a vessel taken under cannon of a neutral fortress is not a good prize." (Vattel, Book 1, ch. 23, p. 189.) But if, so far from taking possession of it, (the fisheries on the coast,) it has once acknowledged the common right of other nations to come and fish there, it can no longer exclude them from it; *it has left that fishery in its primitive*



*freedom, at least with respect to those who have been in possession of it.*" (Id., p. 189.) "According to the current of modern authority, the general territorial jurisdiction extends into the sea as far as cannon-shot will reach, and no further; and this is generally calculated to be a marine league, and the Congress of the United States has recognized this limitation by authorizing the district courts to take cognizance of all captures within a marine league of the American shore." (1 Kent, p. 29.)

But it is useless to multiply authorities. Whatever book you open it is laid down the same. Neither the Secretary of State, nor anybody else, assumes that Alta Vela was in the actual possession of St. Domingo. Was it, then, within three miles of her shore? Was it within her maritime jurisdiction? All authorities agree—the oaths of the claimants and their witnesses, the official statements of consuls and agents, the Coast Survey, the West India pilot, all sailing directions, and all maps and charts—that it is *at least* fifteen and a half miles beyond that cape of St. Domingo which projects furthest into the sea. There can be no dispute here as to whether it is included between headlands of the main, for we are not dealing with a continental, but a small insular state. The island of St. Domingo itself is divided between two contending powers, each of which is torn by perpetual internal conflicts. A wide border on the sea towards Alta Vela is desolate, uninhabited, and without any sort of government. Between this and Alta Vela, six and a fourth miles from the latter, lies Beata, always in the possession of Hayti, where a Dominican dare not "venture." The Haytiens were here all the time the Americans were at Alta Vela, and if there be any power on earth, besides the United States, which has a debatable claim to this island, it is surely not St. Domingo. When Mr. Cazneau pressed the minister of foreign affairs for a single instance of her sovereign care over this outlying key, "he was unable to go beyond the two days devoted to the capture of the American laborers, and the removal and destruction of their property by the Dominican forces."

We shall not dwell, Mr. President, upon the wrongs and losses of Messrs. Patterson and Murguiondo. They were cruel and ruinous, but they are swallowed up in the magnitude of the outrage upon the flag of the United States. *They* are only two citizens of a mighty state which cannot refuse to redress their injuries without, in the first place, violating its solemn faith pledged to them, and, in the second, without abandoning its name to universal contempt. If we permit, in this case, St. Domingo to enter upon our territory, drag down our flag with every mark of insult, destroy our property, and carry away to "an undefined captivity," and to detain and threaten at will an American vessel which comes to ask their deliverance, our capital and enterprise may well seek the protection of foreign colors where they find that security which, in other days, was imparted by the banner of the Union.

We have but another word. By means to which we shall not advert, Patterson and Murguiondo have already been kept seven years in a condition of nameless anxiety and distress. A company of intruders are now, and have been for some time, plundering their island of its guano, and the treasury of St. Domingo is receiving its "royalty" from this lawless trade. We, therefore, pray that the order which the President cannot fail to make may be issued without further delay.

We beg leave herewith to present a supplemental statement of S. R. Kimball, a letter of Consul De Ronceray, an analysis of guano by the Maryland State inspector, a certificate of the collector of the port of Baltimore, and a certificate of John F. Coyle.

We have the honor to be, Mr. President, very respectfully, your obedient servants,

J. W. SHAFFER,  
*Attorney for Patterson and Murguiondo.*  
 BLACK, LAMON & CO.,  
*Of Counsel.*

*Claim of Patterson & Murguiondo.*

CONSULATE OF THE UNITED STATES,

*San Juan, Puerto Rico, November 2, 1860.*

GENTLEMEN: I have to acquaint you of a contemplated attack on a party of our citizens who are engaged in getting out guano on the islet of Alta Vela, near the south coast of the Dominican territory. Under date of the 18th ultimo I am officially advised by William L. Cazneau, special agent of the United States at Santo Domingo, that "these parties are at work, undoubtedly in good faith, under the act of Congress to authorize protection to be given to citizens of the United States who may discover deposits of guano," approved August 18, 1856. The Dominican government, nevertheless, proposes, under Spanish advertisement, to dislodge them by force and destroy their property on Alta Vela. This conduct is the more inexcusable as it is clearly informed of the ample discretionary powers of our government over these matters, and that its uniformly friendly policy toward all the neighboring republics would insure in the present case an early and satisfactory adjustment, should the question of jurisdiction prove to be in favor of the Dominican republic. This, however, is very dubious, as thus far I can find no evidence that the islet of Alta Vela has ever been claimed or occupied by Dominican citizens, or that the government had ever exercised the nominal care of this outlying sand spit until our citizens discovered and developed its guano resources.

This is the sum of the present difficulty, and I state it to you for your own information, and also that you may advise the commander of one of our national vessels should it happen to enter your port while this affair is pending.

Understanding from your correspondents here, Messrs. ———, that your firm have large interests in this affair, I have thought it proper to communicate to you officially the substance of Mr. Cazneau's despatch to me, that whatever interests you may have in the premises may be looked after and secured without delay.

I have to add that, as one of our national vessels will more likely happen at St. Thomas, I have transmitted a copy of Mr. Cazneau's despatch to our consul there, with the request that he will be pleased to advise the commander thereof, as requested in said despatch.

I am, very respectfully, your most obedient servant,

C. DE RONCERAY,

*Consul U. S. A., San Juan, Puerto Rico.*

Messrs. PATTERSON &amp; MURGUIONDO,

*Merchants, Baltimore City, Maryland.*

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*Certificate of John F. Coyle.*

Some days prior to the 13th day of September, 1867, a statement, of which the first paragraph in the accompanying slip is a copy, appeared in the Times, of New York. I called the attention of the Department of State to it, and was informed that it was without the least foundation in truth; that, on the contrary, the case referred to was still pending for adjudication, and I was authorized so to state through the columns of the National Intelligencer. I did so in the issue of 13th September, 1867, (Friday,) as follows:

## CLAIM REJECTED.

A claim involving \$1,500,000 has recently been rejected by the State Department. It was presented by a Baltimore company, through Messrs. Black, Lamon & Co., of this city, who



were to have twenty-five per cent. of the proceeds if successful. The claim is said to have been for an island in the South Pacific, which the company claimed by right of discovery, but of which our naval vessels subsequently took possession. Persons here are querying whether the rejection of this claim has anything to do with the desire of certain parties for a change in the State Department.

We are authorized to state that the above paragraph, from the Washington correspondence of the New York Times, is wholly without foundation. The case referred to is one of some magnitude, involving international questions, which are receiving the attention they deserve from the Secretary of State.

JOHN F. COYLE

JANUARY 25, 1868.

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*Supplemental statement of S. R. Kimball.*

BALTIMORE, *January 29, 1868.*

SIR: I am not quite certain that I have embraced *all* the following facts in connection with the eviction of our people from the island of Alta Vela, in my protest now on file in the Department of State.

I beg to premise that, during the whole of my controversy with the Dominican government upon this question, I was oppressed with the weight of the responsibility that rested upon me.

The violent nature of the outrage by which our establishment had been broken up at Alta Vela—coming as it did without warning—the destruction of our property, and the imprisonment of our people, were calculated to produce the most intense anxiety and apprehension; the more particularly as it occurred during my absence from Alta Vela, and left me only to conjecture the extent of the disaster. I *knew*, the moment I arrived at the island, that the pecuniary damage to my owners and myself was total; but what was of still greater importance, the fate of our men filled my mind with the gravest apprehensions; for I knew from the character of the Dominican people, that the gratification of their passions are under no legal or moral restraint. When I arrived off St. Domingo, I was totally ignorant of what had happened to them. It was, of course, my first duty to ascertain their condition, and, if in captivity, to secure their liberation. I consider the pecuniary loss, although ruinous, was secondary to this. Impressed with this great responsibility, the tone of my letters to our consul was, perhaps, colored by this apprehension, and it may be that my statements were not as clearly and as sharply defined as they ought to have been. With this explanation I beg leave to submit my statement.

I am strongly impressed with the belief that I omitted to state that I sent a communication to the American consul at St. Thomas, and may also have omitted other facts which may be important. I will briefly recapitulate the facts in the case:

I was absent from Alta Vela, at Kingston, Jamaica, when the Dominican schooner of war went to Alta Vela and forcibly took our people to Santo Domingo as prisoners, and committed the other outrages detailed by Mr. Miller.

When I returned to the island and found it entirely deserted, and our arrangements entirely broken up, I at once suspected that the people had been carried to St. Domingo. I immediately sailed to St. Domingo, and laid on and off the port, and sent a boat to communicate with our consul, requesting him to ascertain whether I would be permitted to enter and depart without detention and molestation. I received assurances that I might enter and depart at my own will. Accordingly, I entered the port, but soon found that not the slightest faith was to be attached to the assurances thus given; for I had no sooner hauled my vessel into the wharf than the captain of the port took charge of her, and I was forbidden to leave until I received authority to do so from the government.

I denounced these high-handed proceedings as wholly unjustifiable, and reminded the authorities that the government of the United States would infallibly

call them to account for these high-handed proceedings. Many efforts were made to induce me to acknowledge the right of Dominica to the island. I was assured if I would do so and pay that government a royalty, that I would be permitted to work the island. I replied that I could not enter into such arrangements, but demanded that the whole question should be submitted to my own government, and *if, upon a full discussion of all the facts and circumstances, it was determined that our action had been illegal, and the rights of Dominica had been violated, I would cheerfully agree to pay that government for the guano we had taken away, and for any damages that had been inflicted. I made this proposition not because I had the remotest doubt of our right to that island, but because I deemed that the proper mode—indeed the only one—by which a controversy of this sort could be justly settled.*

The fact that Dominica proceeded to violence, rather than to the plain course of appealing to our government for redress, is almost conclusive proof that the Dominican government was satisfied that it had no claim to the island of Alta Vela. I dwell upon this, from the fact that I have learned that that portion of my papers referring to it has been misunderstood. Never for a moment did I intend to express a doubt of our right to the island, or to acknowledge any right of Dominica to it. All that I proposed to do was ALTERNATIVE. IF, upon investigation by competent authority, it was determined that I was wrong and they were right, I would be the first to redress the wrong. Finding that I could make no impression upon the sense of justice of the Dominicans, and the detention being ruinous to myself and owners, I determined to communicate, if possible, with one of our cruisers, and appeal to them for protection, but I found that all vessels leaving the port were forbidden to take communications of any sort from my vessel. Finally, I succeeded in putting a despatch on board a small vessel bound to St. Thomas, addressed to our consul there, also enclosing a despatch to La Guayra in case there should be no war vessel at St. Thomas.

Whether these despatches were ever received, or not, I do not know. After being detained for nearly a month, I made formal protest, which the United States consul presented to the government, with a remonstrance so urgent and determined that they finally permitted us to sail, and, so far as I have any knowledge, *without having to this day demanded from our government redress and indemnity for our alleged trespass and spoliation of their property as they claim.*

All of which is respectfully submitted by

Your obedient servant,

SAMUEL R. KIMBALL.

The PRESIDENT.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it remembered, and it is hereby certified, that, on this thirtieth day of January, eighteen hundred and sixty-eight, before me, the subscriber, a notary public of the State of Maryland, in and for Baltimore city, personally appeared Samuel R. Kimball, to me known to be the person whose name is subscribed to the above paper, headed "Supplemental statement of S. R. Kimball," and made oath on the Holy Evangely of Almighty God that the matters and things therein stated are true as so stated. As witness my hand and official seal the day and year aforesaid.

[SEAL.]

JOSEPH T. ATKINSON,  
*Notary Public.*

WASHINGTON, *February 11, 1868.*

Mr. PRESIDENT: The city of Baltimore has long enjoyed a large and lucrative trade in guano. Her merchants, encouraged by the "guano act," were the pioneers in developing this great branch of commerce, and the city of Baltimore

became its main distributing point, and the State of Maryland, in common with other agricultural regions of the country, is deeply interested in the protection and promotion thereof. We are, as the representatives of the people of that commonwealth, profoundly anxious that all claims arising under the "guano act" may be speedily and correctly decided by your excellency. We therefore call your special attention to the claim of Patterson and Murguiondo, American citizens, who discovered and took possession of the island of Alta Vela in the Caribbean sea, but who were subsequently ejected therefrom by the authorities of St. Domingo without color of right or warrant of law.

The claim of these gentlemen, highly respectable merchants of Baltimore, for restitution and redress, has been pending in the State Department ever since 1861, but, for some reason unknown to us, has never been acted upon. That the claim is one which this government cannot fail to enforce, we have no doubt, and we deem it of vast importance to the permanent security of the guano interest that it should be done without further delay.

We shall not here refer to the individual injuries of Patterson and Murguiondo, but it is worthy of note, that while the United States hesitates to enforce her undoubted rights, these citizens are being robbed day by day to an enormous extent by St. Domingo and her lessees.

We have the honor to be, very respectfully, your obedient servants,  
FRANCIS THOMAS.  
CHARLES E. PHELPS.  
F. THORN.  
H. McCULLOUGH.

*Analysis of guano from Alta Vela, imported by Patterson & Murguiondo, of Baltimore, Maryland, during 1860.*

Date.	Name of vessel.	Phosphoric acid.	Equal to bone phosphate of lime.
1860.			
May 30	Bark Ellen Morrison.....	29. 10	63. 15
July 26	Schooner Tremont.....	32. 50	70. 95
Sept. 4	Schooner Alice Mowe.....	25. 10	54. 38
Oct. 2	Schooner Jennie Morton.....	24. 05	52. 11
Nov. 12	Brig Mary Morton.....	25. 00	54. 16
Dec. 14	Brig Roseway Belle.....	24. 20	52. 43

BALTIMORE, *January 31, 1868.*

I certify that the above is a correct copy of analysis as taken from my books.  
THOS. I. PITT,  
*State Inspector of Guano from 1858 to 1862.*  
Witness: J. HARRY SULLIVAN.

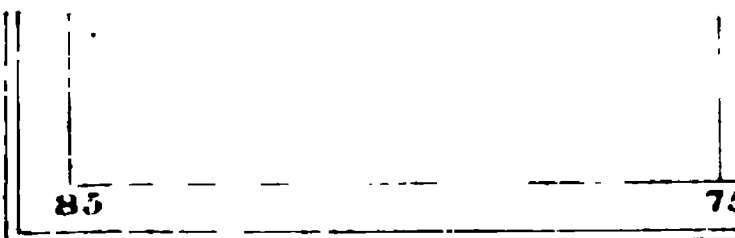
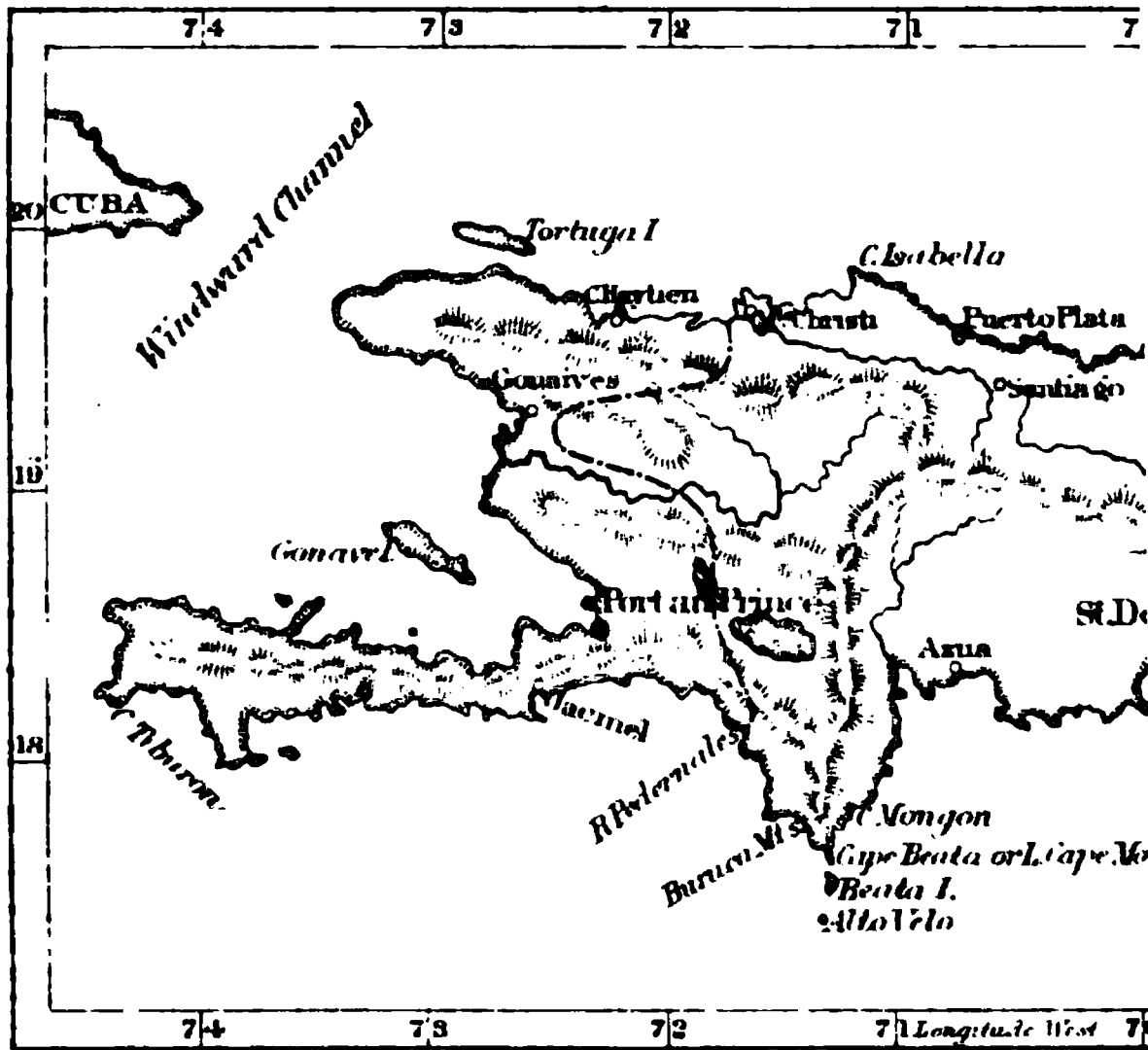
CUSTOM-HOUSE, BALTIMORE,  
*January 31, 1868.*

I hereby certify that the brig Delta, Captain J. W. Gosling, entered at this port May 26, 1860, from Guano Keys, Mexico, per record of this office.  
RICHARD BOWERMAN,  
*Deputy Collector.*





# MAP OF THE ISLAND OF HAY

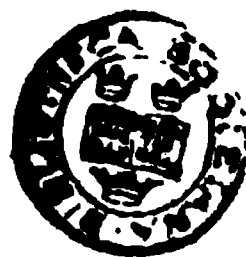






MESSAGE

OF THE



PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

*In compliance with a resolution of the Senate of the 31st of February last, information in relation to the abduction of one Allan Macdonald from the township of Moore, in Canada.*

MARCH 6, 1868.—Read and referred to the Committee on Foreign Relations.

MARCH 10, 1868.—Ordered to be printed.

*To the Senate of the United States:*

In answer to the resolution of the Senate of the 21st of February last, in relation to the abduction of one Allan Macdonald from Canada, I transmit a communication from the Secretary of State, accompanied by the papers relating to that subject.

ANDREW JOHNSON.

WASHINGTON, *March 5, 1868.*

DEPARTMENT OF STATE,  
*Washington, March 5, 1868.*

The Secretary of State, to whom was referred the resolution of the Senate of the 21st of February last, in relation to the abduction of one Allan Macdonald from the township of Moore, in Canada, has the honor to lay before the President the papers mentioned in the subjoined list.

Respectfully submitted :

WILLIAM H. SEWARD.

The PRESIDENT.

LIST OF ACCOMPANYING PAPERS.

Mr. Wilson to Mr. Seward, October 7, 1867.

Mr. Ford to Mr. Seward, November 29, 1867, with accompaniments.

Mr. Seward to Mr. Ford, December 4, 1867.

Mr. Seward to Mr. Russell, December 4, 1867.

Mr. Seward to Mr. Ford, December 20, 1867, with accompaniments.

Mr. Thornton to Mr. Seward, February 14, 1868, with accompaniments.

Mr. Seward to Mr. Thornton, February 17, 1868.

Mr. Thornton to Mr. Seward, February 20, 1868.

*Mr. Wilson to Mr. Seward.*

ST. CLAIR, MICHIGAN, *October 7, 1867.*

SIR: Should the British government make a requisition upon the United States government for the extradition of one Allan Macdonald, on account of his alleged unlawful capture by Wm. H. Dumphey, sheriff of this (St. Clair) county, and Andrew Dumphey, at the township of Moore, Lambton county, province of Ontario, on Saturday, the 5th instant, please be so kind as to defer all action until a full statement of the case can be made under your direction.

Macdonald is a prisoner under final sentence, passed by the United States district court for the eastern district of Michigan some two weeks since, for the crime of smuggling. He was sentenced to pay a fine of something like five hundred dollars and costs, and in default was, by order of that court, committed to the custody of the sheriff of this county, this being the place where the offence was perpetrated. He escaped to Canada, whence the smuggled property was imported, and which served as a depot for the property smuggled in this particular case, and in many others. He sought asylum in Canada, which has been and now is, the asylum for smugglers who have violated our law. The interview between himself and Colonel Dumphey, (the sheriff,) in Canada, and which resulted in his involuntary extradition, was solicited by Macdonald and it is believed that through his instigation one or more *bullies* were assembled to assault Messrs. Dumphey. The assault was commenced by Canadians who are responsible for the force used. It is alleged that pistol-shots were fired, and that one Canadian received a bullet wound in his head. This is denied. On the contrary, it is claimed that the wound, if any, was caused by a stroke with the butt of a pistol, made in self-defence, upon a man who commenced the emente.

The fact that Macdonald is a prisoner under final sentence, instead of being under preliminary arrest, is submitted as a reason why much caution should be exercised in the investigation of any demand the British government may make in the premises.

I have the honor to be, sir, very respectfully, your most obedient,

G. W. WILSON.

HON. WILLIAM H. SEWARD,

*Secretary of State, Washington, D. C.*

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*Mr. Ford to Mr. Seward.*

WASHINGTON, *November 29, 1867.*

SIR: At the instance of his excellency the governor-general of the dominion of Canada, I beg to call your attention to the circumstances under which a British subject named Allan Macdonald has been placed, and is still kept, in close confinement in St. Clair, in the State of Michigan.

From the five affidavits, specified in the margin, which I have the honor to inclose herewith, it would appear that on the afternoon of the 5th ultimo Macdonald was standing near a tavern situated in the township of Moore, province of Ontario, on the road running along the bank of the St. Clair river. He was there accosted by William C. Dumphey, (sheriff of the county of St. Clair, in the State of Michigan,) and Andrew Dumphey, (a brother of the sheriff,) who desired him to cross the river with them. On his refusing to do so, William Dumphey drew a revolver and threatened to blow his brains out if he failed to comply with their wish, and the two Dumpheys then laid hands on Macdonald. A person named Rankin appears then to have inter-

ferred, whereupon a struggle ensued between him and William Dumphey, in the course of which the latter fired two shots with his revolver, both of which grazed Rankin's head, who fell and was finally overcome, after which Macdonald was secured and forcibly removed from the soil of Canada to that of the United States.

I trust that you will be good enough to cause an investigation to be made in the matter, and I venture to hope that, should the inquiry lead to the substantiation of the facts alleged, Macdonald may be set at liberty, and such other reparation made to him as the circumstances may appear to require.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

FRANCIS CLARE FORD.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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*Deposition of Stephen Rankin.*

COUNTY OF LAMBTON, to wit:

I, Stephen Rankin, of the township of Moore, in the county of Lambton, and province of Ontario, yeoman, make oath and say:

1. That on the fifth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, I was present at a tavern kept by one Joseph Gallarno, on the side of the road which runs along the bank of the river St. Clair, in the said township of Moore, opposite to the town of St. Clair, in the State of Michigan, one of the United States of America.

2. That about three o'clock in the afternoon of the said fifth day of October, I saw one Allan Macdonald standing in the road opposite said tavern, beside a wagon driven by one John Kerby, talking to said John Kerby; and, while so talking, I saw him in the hands of two men, whom I believed to be officers of justice from the said town of St. Clair. Whereupon, I immediately ran and took hold of one of said officers, whom I believe to have been Sheriff William H. Dumphy, of the county of St. Clair, in said State of Michigan. Said officer then told me he would blow my brains out, and immediately fired a revolver at me. I felt the ball strike me on the back of my head, and I fell on my knees. I struggled on to my feet, when the said officer again fired at me with a revolver, and the powder from the discharge of the said revolver partially lodged in my right eye. I then closed with said officer, and we both rolled into the ditch by the road-side, where I relinquished my hold of the said officer.

3. That after I had relinquished my hold of the said officer, as aforesaid, I saw him, together with the other of said officers, place the said Macdonald in a boat, and row across the said river St. Clair, in the direction of the said town of St. Clair.

4. That at the time the said Macdonald was so taken away in the said boat, as aforesaid, he was bleeding from the face; and one of said officers was rowing said boat, and the other was holding said Macdonald with one hand, and a revolver in the other.

5. That I required medical attendance to dress my wound in the back of my head, and suffered from the same for three weeks.

STEPHEN RANKIN.

Sworn before me, at the township of Moore, in the county of Lambton, this seventh day of November, A. D. 1867.

JOHN HADDEN,  
*Justice of the Peace, County of Lambton.*

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*Deposition of Rebecca Macdonald.*

COUNTY OF LAMBTON, to wit:

I, Rebecca Macdonald, of the township of Sombra, in the county of Lambton and province of Ontario, wife of Neil C. Macdonald, of the same place, yeoman, make oath and say:

1. That I am the mother of Allan Macdonald, of the said township of Sombra, yeoman.

2. That I visited the jail at the town of St. Clair, in the State of Michigan, one of the United States of America, on the seventh day of November, in the year of our Lord one

## ABDUCTION OF ALLAN MACDONALD.

thousand eight hundred and sixty-seven, at about the hour of three o'clock in the afternoon, and I then and there found the said Allan Macdonald confined in the said jail.

her  
REBECCA + MACDONALD.  
mark.

Sworn before me, at the township of Moore, in the county of Lambton, this seventh day of November, A. D. 1867, having been first read over and explained to the said deponent, Rebecca Macdonald, who seemed perfectly to understand the same, and made her mark thereto in my presence.

JOHN HADDEN,  
*Justice of the Peace, County of Lambton.*

*Deposition of John Kerby*

COUNTY OF LAMBTON, *to wit*:

I, John Kerby, of the township of Moore, in the county of Lambton, butcher, make oath and say:

1. That at or about three o'clock in the afternoon of the fifth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, I was driving past the tavern kept by Joseph Gallarno, situate on the side of the road which runs along the bank of the river St. Clair, in the township of Moore, in the county of Lambton, opposite to the town of St. Clair, in the State of Michigan, one of the United States of America.

2. That at the said time and place above mentioned, while so driving past the said tavern as aforesaid, I stopped and spoke with one Allan Macdonald, and, while so speaking to him, a man whom I did not know, but have reason to believe was an officer from the said town of St. Clair, took hold of said Allan Macdonald by the collar, and, drawing a revolver from his pocket, threatened to shoot said Macdonald if he made any resistance; and immediately then another man, whom I have also reason to believe was an officer of the said town of St. Clair, seized the said Macdonald and dragged him towards the river bank.

3. That after the occurrence stated as above, I ran up the road for assistance, and while so running I heard the report of a pistol.

4. That after the above I saw said Macdonald being taken towards a boat lying at the bank of the river St. Clair, by the two men mentioned above as being officers, one of whom held a revolver in his hand, and the said Macdonald was then bleeding from a wound in the face.

5. That I then saw said officers put said Macdonald in a boat, and row the same across the river St. Clair, in the direction of the said town of St. Clair.

JOHN KERBY.

Sworn before me, at the township of Moore, in the county of Lambton, this seventh day of November, A. D. 1867.

JOHN HADDEN,  
*J. P. Co. Lambton.*

*Deposition of Andrew Gallarno.*

COUNTY OF LAMBTON, *to wit*:

I, Andrew Gallarno, of the township of Moore, in the county of Lambton, yeoman, make oath and say:

1. That on the fifth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, I was present at a tavern kept by my brother, Joseph Gallarno, situate on the side of the road which runs along the bank of the river St. Clair, in the township of Moore, in the county of Lambton, opposite to the town of St. Clair, in the State of Michigan, one of the United States of America.

2. That while I was so present as aforesaid, between two and three o'clock of the afternoon of the said fifth day of October, William H. Dunphy, the sheriff of the county of St. Clair, in the State of Michigan, and Andrew Dunphy, his brother, landed from a boat on the shore of the said river St. Clair, in the said township of Moore.

3. That about three o'clock of the said afternoon of the said fifth day of October, I saw one Allan Macdonald standing in the road opposite to the tavern of the said Joseph Gallarno, talking to one John Kerby, and while so talking to the said John Kerby, the said sheriff, William H. Dunphy, went up to the said Allan Macdonald, and, taking him by the collar, asked him if he "was going away with him," (meaning across the river to the said town of St. Clair); Macdonald replied, "I do not like to go over now." The said sheriff Dunphy, then drew a revolver, and, placing the muzzle against said Macdonald's head, said, "If you don't go I'll blow your brains out." The said Andrew Dunphy then caught hold of the said Macdonald, round the body, and tried to drag him to the boat in which the sa-

Andrew Dunphy and the said sheriff, William H. Dunphy, had landed. At this time one Stephen Rankin interfered, and taking hold of the said Macdonald endeavored to prevent his being taken to the said boat. The said sheriff then came up to the said Rankin and struck at him with the butt end of a revolver, and immediately afterwards fired at the said Rankin; whereupon the said Rankin closed with said sheriff, and both fell into the ditch by the roadside.

4. That at this time the said Andrew Dunphy had the said Macdonald on the ground, and called out that "he had him all right;" whereupon the said sheriff, William H. Dunphy, left the said Rankin, and taking hold of said Macdonald, assisted the said Andrew Dunphy in taking him to said boat.

5. That the said Macdonald was placed in the said boat by the said William Henry Dunphy and Andrew Dunphy, and the said Andrew Dunphy rowed the said boat from the shore of the said river St. Clair, in said township of Moore, and landed the same with the said Macdonald at the said town of St. Clair.

6. That when the said Macdonald was taken away in the said boat as aforesaid, he was kneeling in the said boat, and bleeding from the left side of his face, and the said William H. Dunphy was sitting in the stern of the said boat with a revolver in his hand.

7. That immediately before the said sheriff, William H. Dunphy, and Andrew Dunphy, took away the said Macdonald as aforesaid, the said sheriff said that they were going to have him, (the said Macdonald,) and that they were ready for twenty or thirty men in case of resistance.

ANDREW GALLARNO.

Sworn before me, at the township of Moore, in the county of Lambton, this seventh day of November, A. D. 1867.

JOHN HADDEN,  
*J. P. County Lambton.*

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*Deposition of George L. Cornell.*

STATE OF MICHIGAN, *County of St. Clair, ss :*

George L. Cornell, being duly sworn, deposes and says that he is a regularly licensed physician and surgeon, practicing at the city of St. Clair, in the county of St. Clair, and State of Michigan; and deponent says that on the 8th day of October, in the year one thousand eight hundred and sixty seven, he, deponent, went to the township of Moore, in the province of Ontario, for the purpose of seeing a man by the name of Rankin, said to have been wounded by a pistol shot at the hand of Wm. H. Dunphy, sheriff of the county of St. Clair, Michigan. I called upon Doctor E. Oliver, who had dressed said Rankin's wound, and stated to him that I wished to see said Rankin, and examine said wound. Doctor Oliver went with me and found said Rankin in a blacksmith shop, and brought him to the store of Mr. Johnson, at Mooretown, where I examined said wound, first removing the dressing, and found a semi-lunar incision on the scalp on the posterior part of the head, not to exceed a half an inch in length, with the tissues entire. The incision was perpendicular in its direction, and had the appearance of having been cut by the sharp end of some hard substance, like the butt of a pistol or end of a sharp stick or stone; and deponent further says that he is familiar with gunshot wounds, having in his practice dressed a large number, and is perfectly satisfied, from a critical examination of the wound on the head of the said Rankin, that the same could not by any possibility have been inflicted by a gun or pistol-shot. On examining the wound with Doctor Oliver, he, Doctor Oliver, stated to me that he was fully satisfied that the wound had not been made by a shot, the edges of the wound fitting each other, none of the tissues being carried away, as it must necessarily have been if the wound had been inflicted by a gunshot wound; and further deponent saith not.

M. S. CORNELL.

Subscribed and sworn to before me at St. Clair, this 8th day of October, 1867.

M. H. MILES,  
*Justice of the Peace, St. Clair County, Michigan.*

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*Mr. Seward to Mr. Ford.*

DEPARTMENT OF STATE,  
*Washington, December 4, 1867.*

SIR: I have the honor to acknowledge the receipt of your communication of the 29th ultimo, relative to the alleged forcible abduction of a British subject named Allan Macdonald from Canada into the United States, and who is now



held in close confinement in St. Clair, Michigan. In reply, I have the honor to inform you that the proper authorities will be directed to make a thorough investigation of the matter.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

FRANCIS CLARK FORD, Esq., &c., &c., &c.

*Mr. Seward to Mr. Russell.*

DEPARTMENT OF STATE,

*Washington, December 4, 1867.*

SIR : Her Britannic Majesty's chargé d'affaires has sent to this department several affidavits, tending to prove that on or about the 5th day of October last, William Dunphy, stated to be the sheriff of St. Clair county, Michigan, and one Andrew Dunphy, entered the town of Moore, in the province of Ontario, and forcibly abducted therefrom one Allan Macdonald, who is represented to be now in close confinement in the county of St. Clair. It is further stated that fire-arms were used by the Messrs. Dunphy to effect the seizure and abduction, and that one or more persons were wounded by them. With or without this aggravation the transaction, as represented by the document, constituted an unwarrantable invasion of the jurisdiction of a friendly power which it is the duty of this government to investigate and redress. The circumstance that Macdonald, as is reported to this department from another, was a prisoner under sentence in the custody of the sheriff of St. Clair county, is but a feeble palliation of their grave infringement of international law. I have to request that you will investigate the facts without delay, and make an immediate report upon them to this department.

Your obedient servant,

WILLIAM H. SEWARD.

ALFRED RUSSELL, Esq.,

*United States District Attorney,*

*Eastern District of Michigan, Detroit.*

*Mr. Seward to Mr. Ford.*

DEPARTMENT OF STATE,

*Washington, December 20, 1867.*

SIR : I have the honor now to recur to your note of the 29th of November, concerning the abduction of Allan Macdonald from Canada and his removal to the United States. I give you, for your present information, a full copy of the report upon the subject which has recently been made by Alfred Russell, esq., district attorney of the United States for the eastern district of Michigan, and of the several papers which accompany that report.

I shall esteem it a favor if you will call at the department to confer with me on the subject informally, after you shall have made yourself acquainted with the contents of the papers thus submitted.

I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

FRANCIS CLARK FORD, Esq., &c., &c., &c.

*Mr. Russell to Mr. Seward.*

UNITED STATES DISTRICT ATTORNEY'S OFFICE,  
EASTERN DISTRICT OF MICHIGAN,  
*Detroit, December 16, 1867.*

SIR: I have the honor to acknowledge your communication of the 4th instant, requesting me to investigate and report the facts concerning the abduction of Allan Macdonald from Canada, and his removal to the United States.

Macdonald, a citizen and resident of the United States, recently pleaded guilty to an indictment for smuggling in the United States district court here, and sentenced to pay a fine of five hundred dollars and costs, and was committed to the county jail of St. Clair county until payment should be made.

Being allowed the limits, he escaped and fled to Canada.

Shortly afterwards he sent a message to the sheriff who kept the jail, stating that he would return to the jail with the sheriff if the latter would go to see him. Accordingly, Colonel Dunphy, the sheriff, went, accompanied by his brother Andrew. Macdonald started, voluntarily, to return, but when within a few rods of the ferry-boat, and about one mile from the jail, he changed his mind, and refused to go further, whereupon Andrew Dunphy, *by force, but without any weapon*, compelled him to enter the ferry-boat and cross into the United States, where he is now confined, as before, upon said sentence.

When Macdonald was compelled to enter the boat, a Canadian bystander, named Rankin, attacked and threw down Colonel Dunphy, the sheriff, (who had not laid hands upon Macdonald,) and Colonel D., in order to release himself, struck Rankin on the head with the butt of his pistol, which discharged itself harmlessly.

I beg to refer to the affidavit of Colonel Dunphy, marked A, as to the details; to the affidavit (certified copy) of Dr. Cornell, who examined Macdonald subsequently, as to his condition, marked B; to the affidavit of the same, marked C, as to the nature of the wound of Rankin, showing it not to be a gun-shot wound, and to the letter of my local deputy, Mr. Wilson, marked D, giving Macdonald's voluntary statement as to the whole affair.

The act of Andrew Dunphy, the sheriff asserts, was done *without* his direction or authority. If it be *not* considered the act of the sheriff, the transaction is reduced to a less proportion, perhaps.

I am, sir, very respectfully, your obedient servant,

ALFRED RUSSELL,  
*United States District Attorney.*

HON. WILLIAM H. SEWARD,  
*Secretary of State.*

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A.—*Deposition of William H. Dunphy.*

STATE OF MICHIGAN, *County of St. Clair, ss:*

William H. Dunphy, sheriff of the county of St. Clair, being first duly sworn deposes and says, that on or about the 5th day of October, A. D. 1867, the deponent received an oral request from one Allan Macdonald, theretofore convicted and sentenced in the district court of the United States for the eastern district of Michigan, to pay a penalty of (\$500) five hundred dollars, and costs, for smuggling liquors from the province of Ontario into the United States, and confined in virtue of a *mittimus* issued out of said court, in default of payment of said fines and costs; was committed to the common jail of the county of St. Clair, of which deponent was and is the legal and actual keeper, and who had been allowed the jail limits, and had escaped to the said province of Ontario, to meet him the said Macdonald in the township of Moore, county of Lambton, province of Ontario; and that in pursuance of said request deponent did proceed to the said place, and was accompanied by his brother, Andrew Dunphy; and that he did meet the said Allan Macdonald as requested. That the said Allan Macdonald was desirous of compromising the amount of said fine and

costs, and assured deponent that he would not by his act in taking advantage of the treatment given him subject deponent to any injury. That deponent requested him to return to the United States, and that the said Macdonald said he would do so if any injury would otherwise result to the deponent. That at the instance of the said Macdonald deponent dined with him at Moore. That shortly thereafter, and without any direction or suggestion from deponent, while the said Macdonald was in the highway, the said Andrew Dunphy seized him, the said Allan Macdonald, and a struggle between them ensued. That during its progress, and without any cause, except that deponent was an American citizen, and while in peace with all mankind, one Rankin, whose first name is unknown, a resident of Moore, as deponent has since been informed, attacked deponent with force; that he the said Rankin grappled with deponent, and both deponent and Rankin fell, deponent falling underneath; and that wholly in self-defence, while thus prostrate, he deponent struck the said Rankin with the butt of his pistol upon the head, and that by reason of the concussion the pistol discharged, it being loaded with fixed cartridges. That deponent then extricated himself from the grasp of said Rankin, and that he, the said Rankin, rose and walked to a house near the spot. That during the whole affray, and the taking of the said Allan Macdonald from Ontario, deponent did not touch him, Macdonald, or direct or advise any one then or at any time to take him by force from Ontario. That his, deponent's, purpose in going to Ontario on that occasion was to comply with the request of Macdonald, and persuade him to voluntarily return to the United States, if possible. And deponent further says that the said Allan Macdonald is an unmarried person, and has resided in the State of Michigan more than ten years last past, and during most of that time in the city of St. Clair, in the county of St. Clair aforesaid.

W. H. DUNPHY.

Subscribed and sworn to before me, at St. Clair, this 14th day of December, A. D. 1867.

G. W. WILSON,

*Notary Public, St. Clair County, Michigan.*

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**B.—Deposition of George L. Cornell.**

STATE OF MICHIGAN, *County of St. Clair, ss:*

George L. Cornell, being first duly sworn, deposes and says that he is a regularly licensed and practicing physician and surgeon, now residing at the city of St. Clair, in the county aforesaid, and has so been for the last fifteen consecutive years, and that a portion of said time, to wit, about fourteen months, he was a surgeon in the federal army, and that now he is the county physician, a part of whose duty it is to attend all patients confined in the St. Clair county jail; that on this 10th day of October, A. D. 1867, he made a critical examination of one Allan Macdonald, now confined in said jail under sentence of the United States district court for the eastern district of Michigan, on conviction and judgment for smuggling, as he is informed and verily believes; that he found a slight abrasion of the cuticle on the lower lip of said Allan Macdonald, and that there is a slight swelling of the right cheek; that no ecchymosis is apparent upon his face, that there is no gunshot wound, or any other mark of injury, except as above stated, upon his person, and that he, the said Allan Macdonald is in good health, and stated that he had not been shot at, and that at no time has he claimed to have been; and that he now feels entirely well.

G. L. CORNELL.

Subscribed and sworn to before me this 10th day of October, A. D. 1867.

G. W. WILSON,

*Notary Public, St. Clair County, Michigan.*

COUNTY OF ST. CLAIR, *ss:*

I hereby certify that the foregoing is a full, true, and complete copy of an affidavit taken and made before me on the day of the date thereof, and by me forwarded, at the special instance and request of himself, to T. B. Pardee, Queen's counsel at Sarnia, province of Ontario; and that the examination therein recited was made at the like instance of the said Pardee.

G. W. WILSON,

*Notary Public, St. Clair County, Michigan.*

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**C.—Deposition of George L. Cornell.**

STATE OF MICHIGAN, *County of St. Clair, ss:*

George L. Cornell, being first duly sworn, deposes and says that he is a practicing physician and surgeon, now residing at the city of St. Clair, in the county of St. Clair aforesaid:

that on the 8th day of October, A. D. 1867, he (deponent) went to Mooretown, in the province of Ontario, dominion of Canada, at the request of William H. Dunphy, sheriff of the county of St. Clair, for the purpose of making an examination of a man whose name he understood to be — Rankin, and who, it was reported, had received a gunshot wound from a pistol fired at him on or about the 5th day of October, A. D. 1867, at the township of Moore, in the province of Ontario aforesaid, by said Dunphy; that he, (deponent,) then and there, met Doctor E. Oliver, who informed him that he, the said Doctor Oliver, had, on the day of the abduction of Allan Macdonald from the said province of Ontario, been called to dress a wound on the head of the said Rankin, said to have been made by a pistol-shot fired by said Dunphy; that said Doctor Oliver, then and there, stated that, without reflection, he had fallen into the error of the reports, and had called said wound a gunshot wound, but that, upon reflection, he (Doctor Oliver) recalled many appearances thereof wholly inconsistent with that hypothesis; that the wound was only a cut through the scalp, the skull not being injured; that the hair of the scalp was imbedded in the wound—the scalp entirely present, and the edges somewhat irregular, and came together in perfect apposition; that the wound was semi-lunar in shape, and perpendicular in its direction. And further, he (deponent) then, in company with the said Doctor Oliver, went in search of the said Rankin, who was found in a blacksmith's shop, and was invited, and went across the street to a store, when and where this deponent made, in company with said Doctor Oliver, an examination of the said wound upon the said Rankin; the said wound was a little above the line of the ear, over the external protuberance of the occipital bone, and perpendicular in its direction; that said wound was about seven-sixteenths of an inch in length, semi-lunar in shape, and was rapidly healing by "first intention," and that there was no sloughing whatever, and that, from the appearance of the wound, and the knowledge deponent has of gunshot wounds, deponent says that it is his firm belief that the said wound was not caused by a pistol-shot, but was caused by a blow with some hard substance; that deponent has examined the butt of the pistol of the said William H. Dunphy and that a blow with the butt of said pistol would be liable to make precisely such a wound. And deponent further says that heretofore, to wit, on or about the 8th day of October last, he made an affidavit, in which was set forth the foregoing facts, in substance, which affidavit was, as he is informed and believes, placed in the hands of T. B. Pardee, Queen's counsel, residing at Sarnia, in said province of Ontario, and by said Pardee retained to be used in the report of the alleged abduction case of Allan Macdonald to the superior officials of said province of Ontario

G. L. CORNELL.

Subscribed and sworn to, at St. Clair, this 14th day of December, A. D. 1867, before me.

G. W. WILSON.

*Notary Public, St. Clair County, Michigan.*

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D.—*Mr. Wilson to Mr. Russell.*

ST. CLAIR, MICHIGAN, *December 14, 1867.*

DEAR SIR: The following are extracts from a memorandum of a voluntary statement to myself on the 8th October, 1867, made by Allan Macdonald, then confined in the common jail of the county of St Clair, in virtue of a *mittimus* issued out of the district court of the United States for the eastern district of Michigan, upon conviction and judgment for smuggling, and who, on the 5th of October, 1867, it is alleged, was forcibly abducted from the province of Ontario, viz:

"Had been at the fair at Mooretown Thursday, and sent word to Colonel Dunphy that I was coming up Saturday, and requested him to come and see me. Came up from my father's near Wallaceburg, with a nephew, George Macdonald, about twelve or fourteen years old. Took dinner at Jos. Gallarno's, Dunphy with me. I told the sheriff, Dunphy, that if he would make an affidavit that he would not lock me up, I would go right over with him. Don't recollect what he said. I also told Jos. Galerno that if Dunphy would swear that he would not lock me up I would go right over with him. I was intending to come over, and would have come if the colonel would have been obliged to have lost anything by reason of my leaving. I did not intend to remain away, but thought I could settle better if in Canada. I did not intend to let the colonel lose a cent on my account."

At the close of the conversation are the following remarks:

"I would have come over in five minutes if they had not begun so rough. Colonel Dunphy has always treated me like a gentleman. I have not communicated with any one, before this, the particulars of the affray, or said anything about it."

The above is a full and consecutive copy of the conversation upon the points stated, and the whole of what was said upon them.

I have the honor to be, sir, very respectfully, your most obedient servant,  
G. W. WILSON.

Hon. ALFRED RUSSELL.

*United States District Attorney, Detroit, Michigan.*

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*Mr. Thornton to Mr. Seward.*

WASHINGTON, *February 14, 1868.*

SIR: I have the honor to transmit to you herewith some documents which have been forwarded to this legation by his excellency Viscount Monck, and which contain evidence relative to the abduction of Allen Macdonald from the township of Moore, in Canada, on the 5th of October last, by William H. Dunphy, sheriff of St. Clair, in Michigan, accompanied by his brother, Andrew Dunphy.

I venture to ask you to peruse these documents, and I think you will consider that a certain amount of force was used by the two brothers on the occasion in question. At the same time Macdonald can inspire but little sympathy, for there is no doubt that he had behaved extremely ill in escaping to Canada, after the sheriff had kindly given him his liberty on condition that he should not leave the town of St. Clair. It seems, too, that Macdonald, being desirous that the sheriff should not suffer on account of the former having made his escape, actually invited him to come over to Moore, in order that some arrangement might be come to, and he expressed his determination, if that were found impossible, to return himself to St. Clair. And in his subsequent declaration, Macdonald states that he should have returned that evening, if force had not been used to make him do so in the morning. These are no doubt extenuating circumstances, but although on so extensive a frontier as that between this country and Canada it is difficult entirely to prevent abuses of power by subaltern authorities, it is certainly in the interest of both countries to put a stop to them as far as possible; and I therefore hope that after examining the evidence I now forward to you, you will be able to recommend such measures as may show your sense of what took place on the occasion of the abduction of Allen Macdonald, and may contribute to prevent the repetition of such an occurrence.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

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*Mr. McMicken to Sir J. Macdonald.*

OFFICE OF STIPENDIARY MAGISTRATE,

*Windsor, January 17, 1868.*

SIR: In obedience to your instructions I proceeded to Sarnia, and thence to the township of Moore, &c., and instituted a thorough investigation into the circumstances of the abduction of Allen Macdonald from the township of Moore, on the 5th of October last.

I have the honor to report the result of such investigation, which I hope and believe you will find very clearly set forth the main features of this affair, and exhibits the chief question involved, fully and indisputably confessed.



You will find the whole matter succinctly submitted, viz :

1. Copy of communication from T. B. Pardee, esq., county crown attorney of Lambton, to the Hon. J. S. Macdonald, attorney general of Ontario, reporting the abduction.

2. Communication or report of said county general to said Hon. John S. Macdonald, attorney general, with evidence taken by him, the said county attorney.

3. Copy of original affidavit of John Kirby, followed by a confirmatory affidavit made before me, in which is brought out some additional facts connected with the case.

4. Copy of original affidavit of Stephen Rankin, following which is his affidavit made before me on the 14th instant.

5. Copy of original affidavit of Andrew Gallerno, with confirmatory affidavit of the same, made before me, also on the 14th instant.

6. Copy of original affidavit of Rebecca Macdonald, mother of Allan Macdonald—the object of this being to show that Allan Macdonald was still in jail on the 7th of November, 1867. I did not deem it necessary to renew this, as she lived at considerable distance, and the fact is established anew at a later date.

7. Affidavit of Joseph Gallerno, made before me on the 14th instant.

This witness was not examined at the original investigation.

8. Affidavit of George Powell, made before me on 14th instant. This evidence is also original.

9. Affidavit of Samuel Collinge made before me on 14th instant. This evidence is likewise original.

10. The affidavit of Allan Macdonald, the person abducted, taken before me in the jail at St. Clair, in Michigan, on the 15th of January, 1868. Macdonald was permitted by the sheriff, William H. Dunphy, to be in a room with me, free from any obstacle or hindrance to his giving me his own free and unbiased version of the case.

11. Statement voluntarily made by William H. Dunphy to me in the jail at St. Clair, Michigan, on the 15th January, 1868.

12. Confirmatory statement of Andrew Dunphy, made at same time and place.

I do not think it at all necessary to weigh minutely the evidence as to conflicting points, as you will at once observe these affect the case but in immaterial issues. The difference in testimony is but such as is usually found to exist in separate accounts of matters occurring under excitement, when all the witnesses are equally observant and truthful. The main facts are fully established and are not disputed, viz :

That Macdonald was carried away by force and violence, and against his will, from Canadian territory, on the the 5th day of October, 1867.

That Macdonald was so carried away by William H. Dunphy, sheriff of the county of St. Clair, in the State of Michigan, and Andrew Dunphy, brother to said sheriff.

That said Allan Macdonald was taken and carried away to the town of St. Clair, in Michigan, and there imprisoned in the jail at St. Clair, and that said Allen Macdonald is now, on the evening of the 15th of January, 1868, still in jail in said town of St. Clair, in custody of said William H. Dunphy.

It matters little whether Macdonald was first seized or taken hold of by William H. Dunphy, or by Andrew Dunphy, and this is the only material point disputed by said Sheriff Dunphy.

Sheriff Dunphy admits most clearly and distinctly that Macdonald was not assenting to his being taken away, and that with a certain degree of violence he and his brother did take Macdonald across the river, and did put him in jail at St. Clair in his own custody.

He also admits that a revolver was exhibited, and that he struck Rankin with the butt of it. So far, I apprehend, is comprised the whole gist of the case.



The abduction took place as alleged. The abduction was with force and violence. The abduction was committed by William H. Dunphy; and that Allan Macdonald, the victim of said abduction, is now in jail at St. Clair, in Michigan.

I have, &c.,

G. McMICKEN,  
*Stipendiary Magistrate, Ontario.*

Hon. Sir J. A. MACDONALD, K. C. B., &c.

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*Mr. McMicken to Sir J. McDonald.*

SUPPLEMENTARY REPORT—THE ABDUCTION OF ALLAN MACDONALD.

OFFICE OF STIPENDIARY MAGISTRATE,  
*Windsor, January 18, 1868.*

SIR: I now beg leave to hand you, in addition to papers already submitted in the abduction of Allan McDonald, a copy of a report of Alfred Russell, esq., United States attorney for the district of Michigan, on the case made to the Honorable W. H. Seward, Secretary of State for the United States, under date of 16th of December last. You will note that this report of Mr. Russell was made under certain misapprehension of facts from incorrect reports made to him.

In the first place, Macdonald was not a citizen of the United States—see Macdonald's own affidavit read over to Sheriff Dunphy, and not disputed by him. In the second place, Macdonald did not "start voluntarily to return." All the evidence shows the contrary; even the sheriff's own statement admits that he at first resisted and called for assistance.

As to the wound inflicted upon Rankin, it was not a very severe one; whether it was the result of a blow by the sharp butt of the pistol, or by a bullet, is a disputed point. Having seen the pistol and made inquiries respecting the wound, I am inclined to the former view of the case. In the main, however, Mr. Russell admits the abduction. He says, "if it be *not* considered the act of the sheriff, the transaction is reduced to a less proportion perhaps." And in a conversation with him last evening on the affair, he, after hearing some of the testimony, with Macdonald's affidavit, and Sheriff Dunphy's statement, authorized me to say that he had no doubt the abduction took place without Macdonald's consent, and with a certain degree of force.

I have, &c.,

G. McMICKEN,  
*Stipendiary Magistrate*

Sir JOHN A. MACDONALD, K. C. B.,  
*Minister of Justice, &c., &c., &c., Ottawa.*

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*Mr. Russell to Mr. Seward.*

UNITED STATES DISTRICT ATTORNEY'S OFFICE,  
*Detroit, December 16, 1867.*

SIR: I have the honor to acknowledge your communication of the 4th inst., requesting me to investigate and report the facts concerning the abduction of Allan Macdonald from Canada, and his removal to the United States.

Macdonald, a citizen and resident of the United States, recently pleaded guilty to an indictment for smuggling in the United States district court here, was sentenced to pay a fine of \$500 and costs, and was committed to the county jail of St. Clair county until payment should be made.

Being allowed the limits, he escaped, and fled to Canada. Shortly afterwards he sent a message to the sheriff, who kept the jail, stating that he would return

to the jail with the sheriff, if the latter would go to see him. Accordingly, Colonel Dunphy, the sheriff, went, accompanied by his brother, Andrew.

Macdonald started voluntarily to return, but when within a few rods of the ferry-boat, and about one mile from the jail, he changed his mind, and refused to go further, whereupon Andrew Dunphy, *by force*, but without any weapon, compelled him to enter the ferry-boat, and cross into the United States, where he is now confined, as before, upon said sentence.

When Macdonald was compelled to enter the boat, a Canadian bystander, named Rankin, attacked and threw down Colonel Dunphy, the sheriff, (who had not laid hands on Macdonald,) and Colonel Dunphy, in order to release himself, struck Rankin on the head with the butt of his pistol, which discharged itself harmlessly.

I beg to refer to the affidavit of Colonel Dunphy, marked A, as to the *details*; to the affidavit (certified copy,) of Dr. Cornell, who examined Macdonald subsequently as to his condition, marked B; to the affidavit of the same, marked C, as to the nature of the wound of Rankin, showing it not to be a gun-shot wound; and to the letter of my local deputy, Mr. Wilson, marked D, giving Macdonald's voluntary statement of the whole affair.

The act of Andrew Dunphy, the sheriff asserts, was done without *his* direction or authority. If it be not considered the act of the sheriff, the transaction is reduced to a less proportion perhaps.

I am, &c.,

ALFRED RUSSELL,  
*United States District Attorney.*

Hon. WILLIAM H. SEWARD,  
*Secretary of State, &c., &c.*

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*Mr. McMicken to Sir J. Macdonald.*

SUPPLEMENTARY REPORT—REABDUCTION OF ALLAN MACDONALD.

OFFICE OF STIPENDIARY MAGISTRATE,  
*Windsor, January 18, 1868.*

SIR: On behalf of William H. Dunphy, I beg leave to state that in the first instance he was most ungratefully requited by Macdonald for his kindness to him, to which he was moved by feelings of compassion and humanity alone. In a few days after his escape Macdonald seems in some degree to have repented of his dishonorable conduct, and sent a message to the sheriff desiring him to come over and see him, fixing the particular time and place. The sheriff came over at Macdonald's request, without intent to use force or violence, for he came with Macdonald's messenger, in a Canadian boat which the messenger had gone over in and was returning with. The thought of forcing Macdonald away was suddenly conceived and as suddenly executed. Macdonald being small and weakly, it was easy to carry him away, and intimidation, so far as used, was for the purpose of preventing those standing by from interfering. Sheriff Dunphy admits his great indiscretion, and regrets very much that he was guilty of it. He very kindly and freely permitted me to have access to Macdonald, and to examine him apart from any person whatever, and appeared perfectly willing to narrate to me the whole particulars of the matter. This he did, I believe, truthfully, so far as the excitement of the occurrence permitted him to remember them.

I have, &c.,

G. McMICKEN,  
*Stipendiary Magistrate, Ontario.*

Hon. Sir JOHN A. MACDONALD, K. C. B.,  
*Minister of Justice, Ottawa.*

*Second affidavit of John Kirby.*

The foregoing is a true copy of an affidavit made by me in the matter therein referred to, to wit, the forcible abduction of Allan Macdonald from the township of Moore by Wm. H. Dunphy, sheriff of St. Clair, in Michigan, and his brother Andrew Dunphy, given and sworn to at the instance of J. B. Pardee, esq., county crown attorney for Lambton in the early part of November, 1867. In addition thereto I have only to add, which was then omitted, that I saw Stephen Rankin and the said Wm. H. Dunphy clinched and struggling together, when I went for assistance. I first called on Joseph Gallerneau and said it was a shame to allow a man to be kidnapped that way. Gallerneau refused to assist, and said they will shoot you if you interfere. I then went up to Harvey's tavern and asked for one Coulter, who is a constable. I was told that he was not there and that he had gone up to Mooretown. Harvey was sitting on his porch witnessing the whole affair. I was not aware there were other men in the house at the time, or would have called them out to aid in rescuing Macdonald. Just as the boat had left the shore one Samuel Collinge ran out from Harvey's and called to the Dunphys to bring back the boat. The reply came back, "Go to hell, you damned sons of bitches." When Macdonald was first seized he called out for help. When Macdonald was talking with me in front of Gallerneau's he told me they were over for him; that he had sent for them to try if he could get it settled, but had not made up his mind to go, and asked my opinion. I told him I could not say whether he would be safe in going over unless some arrangement was made first. I am quite certain he was taken away against his will; he is a small weakly man and a cripple, and not capable of making much resistance.

JOHN KIRBY.

Sworn before me at the township of Moore, in the county of Lambton, this 14th January, 1868.

G. McMICKEN.

*Stipendiary Magistrate and Justice of the Peace, Lambton.**Second affidavit of Stephen Rankin.*

COUNTY OF LAMBTON, to wit :

I, Stephen Rankin, of the township of Moore, in the county of Lambton, in the province of Ontario, yeoman, make oath and say that on the 5th day of October, 1867, I was in the tavern kept by Joseph Gallerneau in said township of Moore; I saw several people in the bar-room on that occasion, of whom were Allan Macdonald and a young man said to be Macdonald's nephew, George Powell, Samuel Collinge, and Joseph and Andrew Gallerneau together with two other persons whom I did not then know, but afterwards ascertained to be Wm. H. Dunphy, the sheriff of St. Clair county, in the State of Michigan, and his brother Andrew Dunphy. While in the bar-room the said Sheriff Dunphy displayed a revolver in his hand, saying he had shot lots of secesh in the war, and every time he tried he never missed a shot. I thought this conduct very strange, but at the time did not know what it meant. This was before Macdonald came into the bar-room, and I did not know he was in the house until he came into the bar-room after having his dinner. Soon after this John Kirby drove up in the road in front of Gallerneau's, when I saw Macdonald go up to the wagon and speak to him. I approached and handed Kirby some money, as I owed him a little. I did this chiefly with a view to hear what Macdonald was saying, as I had become suspicious of something being up, but could not think what. Macdonald ceased talking, and thinking he did not wish me to hear I moved off a little distance. While standing in the road near Kirby's wagon I heard Macdonald call for help, and looking round I saw that the two men, whom I now know to be Wm. H. Dunphy and Andrew Dunphy, had hold of Macdonald and were dragging him away. I immediately went up to them and put my hand on Wm. H. Dunphy's arm and said not to try to take the man away by force; the law would not allow such a course. He replied that he would blow my brains out if I interfered. I said hastily, "shoot and be damned," and put one hand on to Macdonald to try to get him out of their grasp. When Macdonald called out for help I heard at the same time a report of a pistol, and directly after I replied to the sheriff, he, the Sheriff Dunphy, pointed a pistol towards my head and fired; we then clinched and both went down together into the ditch by the roadside. I felt I had been struck, and believed it was the bullet from the pistol so fired by Sheriff Dunphy; my right eye was partially blinded by gunpowder from the second firing of the pistol by said Sheriff Dunphy when we rolled into the ditch. I relinquished my hold of said Dunphy, and being somewhat stunned and confused by the struggle and the hurt I had received, I did not follow them further, but saw the two Dunphys drag Macdonald up towards where the boat lay and put him by force in it, and they then rowed away from this shore and towards the town of St. Clair, in the State of Michigan. I required medical attendance for my hurts and suffered for the same for three weeks or upwards. I made an

affidavit in this case in the early part of November last. I then stated the truth as I do now, and had no desire, and have none now, to give any statement but what I know and fully believe to be absolute fact and truth, free from favor or prejudice to any one.

STEPHEN RANKIN.

Sworn before me at the township of Moore, in the county of Lambton, this 14th of January, 1868.

G. McMICKEN.

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*Second affidavit of Andrew Gallerno.*

The foregoing is a true copy of an affidavit made by me at the instance of J. B. Pardee, esq., county crown attorney, in reference to the matter therein alluded to, to wit, the forcible abduction of Allan Macdonald from the township of Moore to the State of Michigan, and the said affidavit contains and is a true statement of the facts and circumstances therein set forth as occurring under my own observation. Said affidavit was made on or about the 9th day of November, 1867. Having fully therein stated all the facts, so far as I can recollect, that are pertinent to the case, I have nothing to add and nothing in any way to alter or amend.

ANDREW GALLERNO.

Sworn before me at Mooretown, in the township of Moore, in the county of Lambton, this 14th day of January, 1868.

G. McMICKEN,

*Stipendiary Magistrate and Justice of the Peace, Lambton.*

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*Deposition of Joseph Gallerno.*

COUNTY OF LAMBTON, to wit :

I, Joseph Gallerno, of the township of Moore, in said county, innkeeper, make oath and say that I reside in the said township, and keep a tavern called Ferry House, situated on the road which runs along the bank of the river St. Clair, in the State of Michigan, one of the United States of America. I was in my tavern on Saturday, the 5th day of October, 1867, and remember well the circumstances connected with the abduction of Allen Macdonald by William H. Dunphy and his brother on that day.

On Wednesday or Thursday preceding said Saturday Allan Macdonald was in my tavern. I was talking with him about his having come away from St. Clair, and from the sheriff's custody there. He said if the sheriff would have to pay the fine he would go back, but if it was to be at the loss of the government he would not return. He, the said Macdonald, asked me if I would ask the sheriff when I went over, which I did frequently every day, being engaged in ferrying, to come over here and see him (Macdonald) on Saturday, and said if the said sheriff (William H. Dunphy) said he would have to make good the fine he would go back. I did not tell William H. Dunphy, the said sheriff, what Macdonald requested me to tell him. I saw him, but did [sic] think of it at the time I saw him. On Saturday, the fifth of October aforesaid, I was in my tavern. I was in bed, not being well. About one o'clock in the afternoon, my brother Andrew came to my bed-room and told me that Allan Macdonald had come, had put his horse in the stable, and wanted to see me, and requested me to get up right off. I went immediately into the bar-room and found Macdonald washing himself at the wash-stand. I asked him to drink, and we took a drink together; we were both quite sober. Turning from the bar I looked towards the river, the door being open, and I saw a boat coming across the river. I remarked to Macdonald, "There is Harvey's boat coming across, with four or five men." When they got well towards this side I looked through a spy-glass at the boat and recognized William H. Dunphy. I said to Macdonald, "William Dunphy is on board." He also looked through the spy-glass, and he said, "They are both aboard; both Dunphys are aboard. I am glad they are coming over;" and again he said, "if he has got to pay it (meaning his fine) I will go back with them. If he has not got to pay it I won't go back." Soon after this remark the boat landed at Harvey's tavern and ferry, which is about thirty rods above my place. In about the space of ten minutes, more or less, William H. Dunphy, Andrew Dunphy, Samuel Collins, and George Powell came together to my place. When William H. Dunphy came into the house he shook hands with Macdonald and called for something to drink, treating all hands. After some general conversation, lasting a few minutes, Andrew Dunphy said: "It's my treat," and treated accordingly. My wife then announced dinner. I told Macdonald to come in to dinner. Sheriff Dunphy said: "I want some dinner, too." My wife made preparations accordingly, and William H. Dunphy took dinner with Macdonald and his (Macdonald's) nephew, who accompanied him here. William Dunphy first left the dinner table and came into the bar-room. He said to his brother, "Don't you want some dinner?" His brother replied, "No: I'll go in and have a piece of pie." He went



in and got the pie, and came out into the bar-room with Macdonald's nephew and Macdonald. Sheriff Dunphy and Stephen Rankin, with myself, were then in the bar-room. Just about this time John Kirby called and asked for Mr. Powell. I told him he was there. He said: "Tell him to come out, as I want to see him." Kirby was in a one-horse wagon in the road opposite the door. Mr. Powell went out, and went away with Kirby. Mr. Collins also went home at or about this time, leaving in the house at this time myself, my brother Andrew, Sheriff Dunphy, his brother, Macdonald and nephew. Andrew Dunphy then treated all hands again; all drank but myself. Stephen Rankin, whom I have omitted to name, was there with us, and drank, too. Macdonald said: "It is too bad; I have hurt my horse in some way. He is lame; come out to the stable and see him." This he said to Sheriff Dunphy. They then went to the stable together. Macdonald's nephew might have accompanied them, but I am not certain of this. While they were gone Andrew Dunphy said: "Let's have something to drink," and treated Mr. Rankin and myself, he and Rankin drinking. I took a cigar. Macdonald and Sheriff Dunphy returned from the barn in about ten or fifteen minutes. On their coming into the bar-room Macdonald said: "It's my treat," and he treated, when they all drank again, except my brother Andrew, who does not drink at all. Macdonald's nephew did not drink. About this time John Kirby drove up in his wagon on the road opposite the door. Macdonald went out and said: "Hold on, Kirby, a minute; I want to talk to you." Macdonald went to the wagon and stood by it on the side next the river, resting his foot on the hub of the wheel. Rankin had also gone out, and was in the road in front of the house, but a little towards the river side. Andrew Dunphy was walking in front of the house, between the house and Kirby's wagon. William H. Dunphy was standing outside the door, leaning up against the house. I was inside the door, but looking out. My brother Andrew was standing next to Sheriff Dunphy, by the door. William Dunphy said to Andrew Dunphy, "You go and take that fellow by the nape of the neck and take him up to Harvey's and put him in the boat." He did not seem to mind this order. William H. Dunphy then hauled out his revolver and said: "I am bound to have him over, and I'll shoot any man that dares to interfere." He went to the wagon, revolver in hand, and put his hand on Macdonald, saying: "Macdonald, are you not coming over with me?" at the same time holding the revolver at Macdonald's head. Macdonald said: "I do not want to go now; I'll go over in the evening." Dunphy said: "I want you to go now, or else I'll blow your brains out." With that his brother, Andrew Dunphy, stepped up towards Macdonald and took hold of him, and began to drag him up the road towards Harvey's, where the boat lay. Kirby called to Rankin, and said: "Rankin, don't let that man be dragged away that way." Rankin then seized hold of Macdonald, endeavoring to release him from Andrew Dunphy's hold. I then told Macdonald's nephew to run up to Harvey's and tell them what was going on, so that help might be got to rescue Macdonald. The lad refused to go, saying he was afraid. Kirby then drove towards the house, calling out, "Joe, Joe," saying "Come, don't let us let that fellow be taken over the river." I said it was no use; we had no arms, and they both (the sheriff and his brother) had revolvers. Kirby then left his horse and went up to Harvey's to seek for assistance. I also sent my brother down for Mr. Powell. At this time Andrew Dunphy had still hold of Macdonald, and William H. Dunphy had hold of Rankin, whom he had dragged away from his hold of Macdonald. Macdonald's nephew and myself were at this time together, in front of the house; the nephew was crying. I moved out towards the said parties when they were scuffling, and then heard two shots fired. The shots followed each other in quick succession. Macdonald's nephew called to me: "Don't you go; you'll get shot, too." I saw Sheriff Dunphy and Rankin down together. Rankin was uppermost at first, but Dunphy turned him over. Rankin appeared to have grasped Dunphy's pistol; and it seemed they had both hold of it together. Andrew Dunphy called to his brother: "I have got this fellow all right," meaning Macdonald. Sheriff Dunphy then left Rankin, and, joining his brother, they together took Macdonald arm and arm and took him up to the boat, dragging him along, and roughly threw him into the boat. They immediately shoved off from the shore and rowed directly off for the town of St. Clair. Directly after hearing the pistol shots I observed blood on Macdonald's face. While Macdonald was in the hands of Andrew Dunphy, and Sheriff Dunphy was engaged with Rankin, he (Macdonald) called out for help twice. Mr. Powell arrived, in answer to my message, when they got about half way to the boat.

From my house to the boat is about thirty rods. Macdonald did not seem to go freely, but struggled and resisted all the way. Macdonald is not very strong; he is a small man, and is a cripple.

JOSEPH GALLERNEAU.

Sworn before me, in the township of Moore, in the county of Lambton, this 14th day of January, 1868.

G. McMICKEN,  
*Stipendiary Magistrate and Justice Peace, Lambton.*



*Deposition of Samuel Collinge.*COUNTY OF LAMBTON, *to wit* :

I, Samuel Collinge, of the township of Moore, in the county of Lambton, mariner, make oath and say that I was in the house of my father-in-law, John Harvey, on Saturday, the 5th day of October, 1867, when Wm. H. Dunphy, sheriff of the county of St. Clair, in the State of Michigan, with his brother, Andrew Dunphy, George Powell, and the boy who had rowed the boat for them, came in ; they remained for a few minutes, and then Sheriff Dunphy, his brother Andrew, George Powell, and myself, went down together to Gallerneau's tavern ; when we got there Sheriff Dunphy went into the bar-room, and at once shook hands with Allan Macdonald, who was sitting there. Sheriff Dunphy told Macdonald, " I have got the thing so fixed now that it will only cost you the costs, \$60, or thereabouts, but if you don't pay that I am stuck for the whole." Macdonald said, " It shall never cost you a cent." Soon after this Sheriff Dunphy and Macdonald went into dinner, and I left and returned to my father-in-law's, whose place is about thirty rods from Gallerneau's. I was in there about getting shaved, when I heard a noise and ran outside. Mr. Harvey told me some one is stealing our boat. George Powell said, " You are a nice man to allow them to take that man away in your boat." I said, " What boat ?" Powell pointed it out. I then saw it and hailed them, and told them to bring back the boat. Sheriff Dunphy held up a pistol, as near as I could distinguish, and shook it threateningly, and I heard one of them, I could not say which, say, " Go to hell, you damned son-of-a-bitch !" I saw Macdonald bent over one of the thwarts of the boat, with his face towards the stern, and blood was dropping from his face. When I went over to St. Clair and got the boat I found a considerable quantity of blood in her. I had quite a job to clean it out. I showed it to Squire O'Dell, of St. Clair, and John E. Kitten, and others ; since then I have seen the said Sheriff Dunphy often. On one occasion George Powell and myself saw him together ; he told us he would have to give the man up. He had a letter from Secretary Seward, and the letter was a pretty saucy one. About three weeks ago I saw Macdonald in the jail of St. Clair ; he expressed himself as very anxious to get out. He did not say anything to me about his treatment, but he looked very bad. I know John Kirby, Stephen Rankin, Joseph Gallerneau, and George Powell, and I believe them to be persons of strict truthfulness and veracity.

SAMUEL COLLINGE.

Sworn before me at the township of Moore, in the county of Lambton, this 14th January, 1868.

G. McMICKEN,  
*Stipendiary Magistrate.**Deposition of George Powell.*COUNTY OF LAMBTON, *to wit* :

I, George Powell, of the township of Moore, in the county of Lambton, acting veterinary surgeon and yeoman, make oath and say that I reside in a house on the same lot on which Gallerneau's tavern is, and distant from said tavern about twenty-five rods. On Friday, the 4th day of October, 1867, Allan Macdonald came to my place and asked me to go over to Gallerneau's to look at his horse, and I did so ; after I had examined the horse he asked me to do him a favor. I said I would if I could. He then requested me to see Sheriff Dunphy, in St. Clair, and ask him to come over and meet him, said Macdonald, there at Gallerneau's about the middle of the afternoon to-morrow, (Saturday.) On Saturday, having occasion to cross to St. Clair, I called at the sheriff's office there and delivered the message from Macdonald to him, telling him that Macdonald wished to see if they could not try and settle this affair, meaning his fine and costs, and his escape from the sheriff's custody on the Monday previous. Sheriff Dunphy said yes, he would, and asked me how I was over ; I said in a boat ; he then asked how long before I returned ; I said in about twenty minutes ; he said he would be ready. When we had embarked in the boat his brother, Andrew, was standing on the dock. The sheriff asked him if he had not better come over. He replied, I don't mind if I do go. He also got into the boat. When part of the way across, the sheriff drew a revolver from his pocket and fired three different shots, at gulls twice, and a floating piece of wood once. He then took some cartridges from his pocket and reloaded the discharged chambers of the revolver. The sheriff said to me in the boat, I have got this thing all fixed right, so that Macdonald will only have the costs to pay, sixty-three dollars. I said, Allan will be very glad, for he wants to settle it. When we arrived near the landing place Andrew Dunphy took a revolver from his pocket and examined it, as if looking to see if it was right, and returned it to his pocket and said nothing. After landing we went into Mr. Harvey's, (a tavern ) Harvey and Mr. Sheriff Dunphy conversed together ; I did not hear what they said. Dunphy settled for my ferriage, and treated. When I came up Dunphy said, " He's a brother," inquiringly like. Harvey said no, but he



is just as good. Samuel Collins then came into the bar-room, and Dunphy asked him to go down with us to Gallerneau's. He said yes. We, Sheriff Dunphy, Andrew Dunphy, Collins, and myself then went down to Gallerneau's. As soon as we arrived Sheriff Dunphy entered the bar-room where Macdonald was sitting and shook hands with him. He told Macdonald "that he had got it all right now but the costs, sixty-three dollars, which one or other of them would have to pay. If you don't go over it will fall on me." Macdonald replied, "you shall never pay one cent for me; I will go over with you this evening." Mr. Dunphy then seemed in good spirits, and asked all hands up to partake of a treat. Soon after this Dunphy and Macdonald went into dinner, and I was called away by John Kirby, who wanted to see me at my own place. While taking my dinner at home, it then being about 3 o'clock in the afternoon, Andrew Gallerneau came in and said his brother wanted me over right off, but did not say what for. I finished my dinner and proceeded towards Gallerneau's. But just before leaving the house I heard two shots; when near Gallerneau's I saw Sheriff Dunphy and Stephen Rankin struggling in the ditch by the roadside. Andrew Dunphy had Macdonald down in the road, and appeared to have his knee on his body. After Sheriff Dunphy and Rankin separated the sheriff went towards his brother and Macdonald and seized hold of Macdonald by the collar. He took hold of him on one side, Andrew Dunphy had hold on the other, each of them holding a revolver in their disengaged hands. Macdonald called out to me, "For God's sake help me, I am badly hurt." They together continued to drag him until they took him to the boat. I overtook them when about half way to the boat. Andrew Dunphy turned half round and held out his revolver towards me, and said that he would shoot any man that would interfere, he did not care who it was. Not being armed I could not interfere, but followed them to the boat. I saw them throw Macdonald roughly into the boat. Macdonald was then bleeding on the face. Just before they got to the boat I called to Mr. Harvey not to let them take the boat, but he did not answer. Harvey, Kirby, and another man stood by the door where they go down to the boat, about a red or two only from the river. Andrew Dunphy rowed the boat off. Macdonald was on his hands and knees in the boat. I asked Harvey why he let them take his boat; he said he would have them up for stealing it. I said, you can't do that, when you stood here and never forbade them. Samuel Collins, when spoken to by me after I went into the house and found him there with three other men, went out and called to Dunphy to return with the boat, which Andrew Dunphy replied in a loud voice, "Go to hell, you Canuck sons-of-bitches." When I returned towards Gallerneau's I found Rankin on the road, about the place where the sheriff had left him. I found he had a wound in his head. He said he was shot. I then went with him to Mooretown, when the doctor examined his head, and hearing from the doctor that his wound was not dangerous I returned home.

GEORGE POWELL

Sworn before me at the township of Moore, in the county of Lambton, January 14, 1868.

G. McMICKEN,  
Stipendiary Magistrate.

#### *Deposition of Allan Macdonald.*

I, Allan Macdonald, of the township of Sombra, in the county of Lambton, in the province of Ontario, in Canada, teamster, but now confined in the jail of the county of St. Clair in the town of St. Clair, in the State of Michigan, one of the United States of America, make oath and say:

In the month of September, in the year A. D. 1867, I was tried and convicted in the Supreme Court of the United States on a charge of smuggling, and was sentenced to pay a fine of five hundred dollars and costs amounting to sixty-six dollars or thereabouts, and to be kept in jail until fine and costs were paid. Not being able to pay said fine and costs, I was brought up to and imprisoned in the jail of the said county of St. Clair, in the town of St. Clair and State of Michigan, of which county William H. Dunphy was then and is now sheriff, and, as such, had and has charge of the said jail. Soon after I had been received into said jail, within less than two hours, the said Sheriff Dunphy came and opened the door of the apartment I was in and told me to come out. This, I understood, he did at the solicitation of my brother, and out of a humane and kind feeling towards me, with a view to my being at liberty to make an effort to raise the fine and costs, and to obtain my liberty. The said sheriff doubtless had confidence in me that I would not go away, but I do not recollect promising or pledging myself to him in this respect; I did, however, tell Mrs. Dunphy, wife of said sheriff, that I would not go away. I remained at liberty in the said town of St. Clair for about three weeks, when, finding I could not succeed in raising the money, I thought if I made my escape into Canada I could make better terms in getting the matter settled, and obtain liberty to return to the said town of St. Clair as I might choose. I accordingly went across the river to Canada on Monday, the 30th day of September, 1867. On Thursday or Friday, the 3d or 4th of October following, I requested Joseph Gallerneau and George Powell to see Sheriff Dunphy and ask him to come over on Saturday, the 5th of said October, and see me at Joseph Gallerneau's tavern. Said Powell delivered my message to said sheriff, and, in compliance with my request, the said Sheriff Dunphy came over to see

tavern of Joseph Gallerneau, and saw me there on Saturday. We met in the bar-room and afterwards took dinner together, and also went together to the stable to look at my horse. In the course of conversation the said sheriff told me that he thought the matter could be settled very soon, and that I would, he thought, be let off by paying the costs, if I came over and attended to it, but if I did not go over he, the said sheriff, would be stuck for it. I told him I did not intend he should suffer for me, and I would go over in the evening. In a little while after our return from the stable I went out in the road to speak with Mr. John Kirby, who was in a wagon in front of the door. I stood on the side of the wagon next the river, and, while so talking to Kirby, William H. Dunphy, said sheriff, came up to me and took hold of me by the coat to pull me away from the wagon. After he got me away from the wagon into the road he pulled out a revolver and said he would shoot me if I did not come along. At this time Andrew Dunphy, brother to said sheriff, who accompanied him over to the Canada side, took hold of me. At the same time, also, another man, whose name I did not know, but have since learned was Rankin, took hold of me to release me from the hands of the Dunphys. Sheriff Dunphy let go his hold of me and clinched with Rankin, the said Andrew Dunphy still keeping hold of me and keeping me down on the road. Sheriff Dunphy and Rankin were together in the ditch; while they were down and scuffling I heard a pistol-shot, which I believe was a shot fired from the said revolver in the hands of Sheriff Dunphy. I only heard one report of a pistol-shot, and am quite certain there was but one shot fired during the whole affair. Directly after the report of the pistol William H. Dunphy and Rankin separated, and said William H. Dunphy came towards Andrew Dunphy and me, and they both then hurried me up to the boat, which lay at Harvey's, and put me on board. When first seized by said sheriff I called out for help, but after I was taken hold of by both of them I did not call for any help. They ran up to the boat with me as fast as they could, pulling me along, but I made no resistance, thinking then I might as well go with them as not. While they were so taking me to the boat I saw no display of revolvers in the hands of either Dunphy, but in the boat I saw two revolvers which they laid down on one of the seats of the boat. After we left the Canada shore Andrew Dunphy called out, "I don't care now for the Canucks," or something like that. I did not hear any hailing from the shore. In the first struggle, when Andrew Dunphy had hold of me, I was hurt in the face, and my nose bled freely; none of my hurts were at all serious. Since I have been again in jail I have nothing to complain of, as regards my treatment; I believe I am treated as well as any of the other prisoners. Previous to this affair I lived in the town of St. Clair aforesaid for about seven years, but I never voted or took out naturalization papers. Had Mr. Dunphy not have taken hold of me when he did, I would certainly have returned to his custody that evening, as I had made up my mind to do so.

ALLAN MACDONALD.

Sworn before me at the town of St. Clair, in the State of Michigan, this 15th day of January, 1868.

G. McMICKEN,  
*Stipendiary Magistrate for Ontario.*

Statement of William H. Dunphy, esquire, sheriff of the county of St. Clair, in Michigan, voluntarily made before the undersigned, at the town of St. Clair, in the said State of Michigan, this 15th day of January, 1868.

G. McMICKEN,  
*Stipendiary Magistrate, Province of Ontario.*

On the 7th day of September, 1867, I received into my custody as sheriff of the county of St. Clair, in the State of Michigan, one Allan Macdonald, convicted of smuggling in the United States court, sentenced to pay a fine of five hundred dollars and costs, or to be imprisoned until said fine and costs were paid. Under a mittimus, to me directed, I put the said Macdonald in jail. At the solicitation of his brother, brother-in-law, and friends, within two hours after receiving him into my custody, I gave him the liberty of the town, upon his positive promise and assurance that he would not leave the town. He so continued at liberty and remained within the town, reporting his presence to me daily, for about three weeks. On or about the last day of September, in direct contravention of his pledge and agreement, he left the country, and went across the river to Canada, thereby rendering me liable for the fine imposed upon him and for the costs, as well as subjecting me to censure and charge of remissness in duty. I felt much hurt at this gross act of deception on the part of Macdonald, as what I did for him was done from motives of humanity and kindness alone. On the fifth of October, 1867, I received a message from Allan Macdonald, by one George Powell, requesting me to go over to one Gallerneau's tavern, in the township of Moore, in Canada, and directly opposite the town of St. Clair, and there see said Macdonald, to confer with him about settling his matters. In compliance with his request, I crossed over the river with said Powell, my brother, Andrew Dunphy, going along with me. On reaching Gallerneau's tavern I saw Macdonald there, in the bar-room, and conversed with him. I told him I felt sure if he came over he would soon get clear, by paying the costs

alone, and I am sure an effort would have been made for him which would have had this effect. After being there for some time, Macdonald not appearing unwilling to come back over the river with me, but saying he would come, only putting it off and lingering, my brother Andrew, getting impatient, stepped up to Macdonald, while he was in the road talking to a man in a wagon, and took hold of him, telling him to come along. At this time I was about twenty feet distant from my brother and Macdonald. Macdonald called out, and I went towards them, and then I was seized by one Rankin, who tore open my waistcoat and shirt, and struck me in the forehead with something, I cannot say what. We then clinched and fell together in the ditch, but, before falling and after getting the blow from Rankin, I struck him on the head with the butt-end of a revolver, which I took from my pocket, and the effect of the concussion was to explode the pistol. The firing of the pistol was entirely accidental. I never, at any time during the affair, shot at any one or presented a pistol at any one whatever. My brother Andrew had still hold of Macdonald, towards whom I moved after separating myself from Rankin, and we then together went to the boat, my brother putting Macdonald into it; he, Macdonald, then making no resistance, nor calling out for help. We then brought said Macdonald across the river, and placed him in the jail, where he has been ever since, and now is, and has constantly been, treated and dealt with kindly, and as well as any other prisoner in said jail.

W. H. DUNPHY.

I have heard the foregoing statement of my brother, William H. Dunphy, and what is therein stated is correct and true in every particular.

ANDREW DUNPHY.

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*Mr. Seward to Mr. Thornton.*

DEPARTMENT OF STATE,

*Washington, February 17, 1868.*

SIR: I have the honor to acknowledge the receipt of your note of the 14th of February in relation to the abduction of Allan Macdonald from the township of Moore, in Canada, on the 5th of October last, by William H. Dunphy, sheriff of St. Clair, Michigan, accompanied by his brother, Andrew Dunphy. I have carefully read the papers which accompany your note, and which were transmitted to you by Lord Monck. It gives me pleasure to say that the view of the case which you have presented seems entirely candid and fair. I would gladly overlook, if it were possible, a point which operates to the advantage of your case and against our own, which you have not presented. The prisoner Macdonald and the Canadian persons concerned were unofficial, private persons. The principal United States actor was a sheriff of Michigan, and, in a practical sense, he was acting as marshal of the United States government. He committed a great fault as a civil officer in permitting the culprit who had been intrusted to him for close penal custody to go at large in the streets of St. Clair. All the other proceedings occurred in his attempts to retrieve that unpardonable error. There is much doubt, however, whether the sheriff actually applied or authorized force to be exerted in bringing the prisoner out of Canada. There is even much doubt whether the prisoner was not actually consenting to the show of force made by the two Dunphys. Nevertheless, it is not to be allowed by either government, in any case, that an officer of one of the governments, having a prisoner in judicial custody and permitting him to escape, shall pursue the offender into the jurisdiction of the other country, at the hazard of disturbing the piece of the frontier.

Upon these grounds I am authorized to express the disapprobation by this government of the proceedings of the sheriff in the case of Macdonald, and to direct that person to be set at liberty in Canada. I hope that this proceeding on our part will be acceptable to your government as a satisfactory solution of the whole question.

Awaiting your reply before adopting final proceedings in the case, I have the honor to be, with the highest consideration, sir, your obedient servant,

WILLIAM H. SEWARD.

EDWARD THORNTON, Esq., &c., &c., &c.

*Mr. Thornton to Mr. Seward.*

WASHINGTON, *February* 20, 1868.

SIR: I have the honor to acknowledge the receipt of your note of the 17th instant relative to the abduction of Allan Macdonald from the township of Moore, in Canada, in October last.

I have much pleasure in expressing to you my sincere acknowledgments for the view which you have taken of this matter, and which so completely accords with my own. I am confident that her Majesty's government will also be much gratified, and will be entirely satisfied with the contents of your note.

In the mean time I hope you will believe that we can have no sympathy with the individual in question, who showed so great a want of good faith on the occasion; nor was the representation I made to you inspired by any wish to withdraw a convicted criminal from punishment, but was merely for the purpose of inviting your assistance for the prevention of any conflict between the authorities of our two countries.

I therefore take upon myself the responsibility of not accepting your offer, that Allan Macdonald should be set at liberty in Canada—confident, as I am, that her Majesty's government will approve of this step, at the same time that they will fully appreciate the straightforward manner in which you have treated the question.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

EDWARD THORNTON.

HON. WILLIAM H. SEWARD, &c., &c., &c.

Ex. Doc. 39—3



LETTER  
OF  
THE SECRETARY OF WAR,  
COMMUNICATING,

*In obedience to law, statement of contracts made by the quartermasters' department during the month of February, 1868.*

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MARCH 11, 1868.—Read, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

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WAR DEPARTMENT,  
*Washington City, March 10, 1868.*

SIR: In compliance with the acts approved April 21, 1808, and July 17, 1862, I have the honor to transmit herewith statements of contracts made by the quartermasters' department during the month of February, 1868, and of those not received in time to be included in previous reports.

Your obedient servant,

EDWIN M. STANTON,  
*Secretary of War.*

Hon. B. F. WADE, *President of the Senate.*



## CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

*Abstract of contracts made by the quartermasters' department during the month ending on the 29th February, 1868, and those made prior thereto, but not received in time to be included in the last report.*

No.	Place and date.	Parties.	Nature of contract.	Bond.
1	Richmond, Va., December 24, 1867.....	Lieut. Col. Jas. M. Moore and John D. Smith.	For hard wood, supply of troops at Farnville, Va., for six months, at \$4 per cord.	\$300 00
2	Richmond, Va., December 26, 1867.....	Lieut. Col. Jas. M. Moore and Brauder & Cooke.	For 16,000 bushels oats in sacks, delivered at Richmond, Va., at 75¢ cents per bushel.	5,000 00
3	Richmond, Va., December 31, 1867.....	Lieut. Col. Jas. M. Moore and Wm. A. Gills.	For 25 tons straw, baled, at \$13 per ton, delivered at Richmond, Va.	200 00
4	Atlanta, Ga., December 9, 1867.....	Gen. Rufus Saxton and Milleram & Co....	For 468 window frames and sash, 18 lights 10 by 12; 430 window frames and sash, 12 lights 10 by 12, primed and glazed with wood Amer-ican glass; 586 doors, primed; 6 locks, and mini-locks, and mini-delivered at Sa-ta, Ga.	30,000 00
5	San Antonio, Texas, Nov. 16, 1867.....	Lieut. Col. J. G. C. Lee and R. W. Pray.	For 264 horses at \$157 each, delivered at San Antonio, Texas.	90,000 00
6	San Antonio, Texas, Nov. 16, 1867.....	Lieut. Col. J. G. C. Lee and R. W. Pray.	For 40 horses at \$157 each.....	3,000 00
7	St. Louis, Mo., Dec. 20, 1867.....	Lieut. Col. Chas. W. Thomas and John Fletcher.	For 10,000 bushels oats at 67 cents, and 13,437 bushels oats at 68 cents, in sacks of about 4 bushels each, delivered in St. Louis, Mo.	4,000 00
8	St. Louis, Mo., Dec. 20, 1867.....	Lieut. Col. Chas. W. Thomas and Austin Walsh.	For 500 tons hay at \$22 35 per ton, at St. Louis, Mo.	2,800 00
9	St. Louis, Mo., Dec. 20, 1867.....	Lieut. Col. Chas. W. Thomas and Joseph Brovo.	For 50 tons straw at \$18 per ton, at St. Louis, Mo.	925 00
10	Camp C. F. Smith, May 31, 1867.....	Capt. J. H. Walker and Frank Drake.....	For 300,000 lbs. oats or barley at \$6 70 per 100 lbs.; 250 tons hay at \$14 25 per 2,000 lbs., coin; 30 tons oat straw, at \$14 25 per 2,000 lbs.; 250 cords wood, at \$24 75 per cord.	15,000 00
11	Camp C. F. Smith, May 31, 1867.....	Capt. J. H. Walker and F. P. Brougham.	For 1,000 bushels charcoal at \$1 24 per bushel.	500 00
12	Washington, D. C., Oct. 10, 1866.....	Maj. M. I. Ludington and John D. Bright.	For lease of square No. 138, Washington, D. C., for drill-ground for cavalry, at \$240 per year, monthly occupation, six months' notice.	.....

# CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

3

13	Denver, C. T., July 30, 1864.....	Capt. L. Mallen and Samuel H. Jones.....	For 2,000 tons hay, cured and stacked, at \$42 75 per 2,000 lbs., at Denver.	10,000 00
14	Denver, C. T., July 25, 1864.....	Capt. L. Mallen and Jasper P. Sears.....	For 10,000 bushels corn in sacks at 12 <sup>1</sup> / <sub>2</sub> cents per lb., C. T.	10,000 00
15	Denver, C. T., July 23, 1864.....	Capt. L. Mallen and B. D. Creary.....	For 1150 t livered ; 10 lbs., de-	.....
16	Denver, C. T., Oct. 6, 1864.....	Capt. C. L. Gorton and Saml H Jones.....	For 20,000 bushels corn in sacks, at \$3 63 per bushel, at Denver, C. T.	10,000 00
17	Nashville, Tenn., April 1, 1862.....	John B. Anderson, agent, and Thacker, Burt & Co.	For the erection of a bridge across Cumberland river at Nashville Tenn ; for the fixed spans \$45 per l for the draw por- tion com fications For plans and speci- file.	.....
18	Denver, C. T., Oct. 3, 1864.....	Capt. C. L. Gorton and Jasper P. Sears, jr.	For 15,000 bushels corn, at 15 cents per pound delivered at Fort Lyon, C. T.	.....
19	Baltimore, Md., Dec. 31, 1867.....	Gen. S. Van Vliet and F. S. Neven & Co ..	For 170 tons hay, in bales, viz : 100 tons at \$24 50 per ton, and 70 tons at \$25 per ton, delivered in Baltimore, Md.	3,000 00
20	Baltimore, Md., Dec 31, 1867.....	Gen. S. Van Vliet and B. H. Claassen.....	For 100 tons hay, in bales, viz : 25 tons at \$24 per ton, 25 tons at \$24 50 per ton, 25 tons at \$25 per ton, and 25 tons at \$25 50 per ton.	2,000 00
21	Baltimore, Md., Dec. 31, 1867.....	Gen. S. Van Vliet and Edwin A. Abbott....	For 170 tons hay, in bales, viz : 100 tons at \$24 50 per ton, and 70 tons at \$25 per ton.	5,000 00
22	Baltimore, Md., Dec. 31, 1867.....	Gen. S. Van Vliet and J. Tome & Co.....	For 100 tons hay, at \$24 per ton, delivered in Baltimore.	2,000 00
23	Omaha, Neb., Dec. 23, 1867.....	Gen. Wm. Myers and C. W. Hamilton.....	For 250 cords of wood at \$23 75 per cord, delivered at Sidney Station, Neb.	3,000 00
24	Fort Kearney, Neb., Nov. 25, 1867.....	Lieut. D. A. Griffith and John H. Steats.....	For 400 cord ered at Ft delivered	5,000 00
25	Fort Phil. Kearney, D. T., Oct. 23, 1867.....	Gen. G. B. Dandy and Fred Weddle.....	For 1,000 l delivered	600 00
26	Goldsboro', N. C., Oct. 21, 1867.....	Lieut. F. A. Kendall and H. L. Grant.....	For supplying post with wood for six months, say 75 cords per month, at \$4 per cord.	5,000 00
27	San Antonio, Texas, Nov. 29, 1867.....	Lieut. Col. J. G. C. Lee and John James.....	For lease of certain tracts of land in Presidio county, Texas, at \$400 per annum, payable monthly ; meeta and bounds particularly described in lease.	.....
28	Fort Shaw, M. T., Sept. 3, 1867.....	Capt. N. S. Constable and George Higgins.....	For 75 head half-breed horses, at \$120 each ; 65 to be delivered at new military post in the Gallatin valley, M. T., and 10 at Fort Shaw, M. T.	.....

## CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

Abstract of contracts made by the quartermasters' department, &amp;c.—Continued.

No.	Place and date.	Parties.	Nature of contract.	Bond.
29	St. Louis, Mo., Dec. 14, 1867 .....	Lieut. Col. Chas. W. Thomas and Austin Walsh.	For 10,000 bushels oats, at 72½ cents per bushel; 100 tons hay, at \$20 45 per ton; 100 tons hay, at \$21 45 per ton, and 100 tons bay, at \$21 45 per ton, at St. Louis, Mo.	\$3,500 00
30	St. Louis, Mo., Dec. 14, 1867 .....	Lieut. Col. Chas. W. Thomas and Louis Gausborn.	For 50 tons straw, at \$15 per ton, at St. Louis, Mo.	4,800 00
31	St. Louis, Mo., Dec. 14, 1867 .....	Lieut. Col. Chas. W. Thomas and Joseph Brovo.	For 50 tons straw, at \$15 per ton, at St. Louis, Mo.	200 00
32	St. Louis, Mo., Dec. 26, 1867 .....	Lieut. Col. Chas. W. Thomas and Louis Gausborn.	For 8,063 bushels oats, at 62½ cents per bushel, at St. Louis, Mo.	1,300 00
33	St. Louis, Mo., Dec. 26, 1867 .....	Lieut. Col. Chas. W. Thomas and Austin Walsh.	For 178 tons hay, at \$22 per ton, at St. Louis, Mo.	1,000 00
34	San Francisco, Cal., Dec. 9, 1867 .....	Capt. Jas. F. Hoyt to Geo. H. T. Clayton and Franklin Buckalew.	.....	.....
35	Plattsburg, N. Y., Nov. 1, 1867 .....	Lieut. Frank Madden and Charles Kean ..	.....	4,300 00
36	Portland, Oregon, Oct. 11, 1867 .....	Gen. E. B. Babbitt and Wm. M. Hoag.....	.....	10,000 00
37	Fort Ransom, D. T., July 24, 1867 .....	Major W. L. Kellogg and Henry Gaser....	.....	.....
38	New Orleans, La., Jan. 4, 1868 .....	Gen. Chas. H. Tompkins and J. C. McKibbin.	New Orleans, La., to Florida coast, per steamer Alliance, or such other steamer as may be safe and satisfactory to the officer in command, at \$126 per day for each and every day employed	30,000 00
39	Jeffersonville, Ind., Jan. 7, 1868 .....	Col. H. C. Ransom and Wm. Jouse & Co	For 6,704 bushels coal, at 24 cents per bushel, at Jeffersonville, Ind.	1,000 00

# CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

5

40	Santa Fe, N. M., Jan. 2, 1868.	Maj. M. I. Lodington and Vincent Romero.	For subsisting and taking care of from 400 to 700 government animals, horses and mules, from about January 5, 1868, to May 1, 1868, unless sooner removed; to be paid for corn, 14 cents per pound, and -----	100,000 00
41	New Orleans, La., Jan. 8, 1868	Gen. C. H. Tompkins and John W. Black.	For building materials as follows, viz: 89,566 P., at \$23 25 per M; 23,009 feet dressed lumber, T. P., at \$31 per M; 25,680 feet undressed roofing, T. P., at \$23 25 per M; 350,000 laths, at \$4 per M; 24,172 feet undressed cypress sheathing, at \$24 50 per M; 45 pairs window sash, at \$10 per pair; 31 doors, at \$10 27 each; 4 double doors, at \$15 40 each.	6,500 00
42	New Orleans, La., Jan. 24, 1868	Gen. C. H. Tompkins and C. A. Whiting & Co., agents Cha. Morgan.	For transportation from New Orleans to coast of Texas, with one steamer each week from New Orleans; for points and rates see schedule attached to contract.	20,000 00
43	Jeffersonville, Ind., Jan. 2, 1868	Col. H. C. Ransom and Clark & Mills.	For supplying depot at Jeffersonville, Ind., with forage for three months: 1,800 bushels oats, at 73 cents per bushel; 33 tons hay, at \$17 per ton.	1,500 00
44	Charleston, S. C., Jan. 10, 1868	Gen. R. Saxton and J. P. Low	For disinterring remains of Union soldiers now buried in the national cemetery at Montrom-	-----
45	Charleston, S. C., Jan. 16, 1868	Gen. R. O. Tyler and Lowenberg, Bros.	portation. For supplying Fort Magon, N. C., with wood in quantities required until July 31, 1868, at \$3 45 per cord.	500 00
46	Rome, Ga., Jan. 1, 1868	Gen. Rufus Saxton and J. F. Reese and B. W. Bell.	For lease of 10 rooms for quarters, at \$15 per month each room.	-----
47	Atlanta, Ga., Jan. 30, 1868	Gen. Rufus Saxton and Alfred Ansell.	For lease of Austell House for 2 years for headquarters third military district, at \$200 per month.	-----
48	Leavenworth, Kansas, Dec. 18, 1867	Gen. L. C. Easton and Geo. W. Nellis.	For transporting 125th colored regiment United States infantry from Leavenworth City to Louisville, Kentucky; officers, men, and baggage, at \$11 60 each; one car for horses, at \$150.	-----

*Abstract of contracts made by the quartermasters' department, &c.—Continued.*

No.	Place and date.	Parties.	Nature of contract.	Bond.
49	Fort Ransom, D. T., July 24, 1867.....	Major W. L. Kellogg and Henry Gajer ....	For 800 cords of wood, at \$6 50 per cord, delivered at Fort Ransom.	\$3,000
50	Atlanta, Ga., Jan. 4, 1868.....	Gen. Rufus Saxton and Pratt, Edwards & Co.	For 300,000 pounds hay, at \$38 50 per ton, delivered at Atlanta, Georgia.	11,850
51	Atlanta, Ga., Jan. 4, 1868.....	Gen. Rufus Saxton and E. R. Carr.....	For 142,400 pounds oats, in sacks, at \$1 per bushel; 110,000 pounds straw, in bales, at \$35 per ton of 2,000 pounds.	.....
52	New York city, Jan. 18, 1868 .....	Gen. Rufus Ingalls and Henry Bruner.....	For lease of premises on the southeast corner of Houston and Green streets, in the city of New York, for five years from the 1st of May, 1868, at \$25,000 per annum.	.....
53	New York city, Jan. 18, 1868 .....	Gen. Rufus Ingalls and Henry Bruner.....	For lease of premises on Wooster street, New York, Nos. 119 and 121, for five years from the 1st of May, 1868, at \$2,000 per annum.	.....
54	New York city, Jan. 18, 1868 .....	Gen. Rufus Ingalls and Henry Bruner.....	For lease of premises on Wooster street, New York, Nos. 120, 122, 124, and 126, for one year from 1st May, 1868, at \$14,000 per annum.	.....
55	Philadelphia, Jan. 24, 1868.....	Col. F. J. Crilly and Wm. Hageman and Snyder.	For 57½ cents per bushel, Pa.	.....
56	Philadelphia, Jan. 29, 1868.....	Col. F. J. Crilly and J. Parchment.....	For \$5 per cord, delivered	.....
57	Carle, Illinois, Jan. 7, 1868.....	Gen. J. D. Bingham and T. W. Carrico....	For building picket fence around the National Cemetery at Mount City, Ill., \$250.	.....
58	Fort Leavenworth, Jan. 21, 1868.....	Gen. L. C. Easton and H. L. Newman....	For 15 bushels corn, at 74 cents per bushel; 5,000 bushels oats, at 69 cents per bushel, delivered at Fort Leavenworth.	.....

# CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

7

59	St. Louis, Mo., Jan. 1, 1868.	La. Col. Chas. W. Thomas and Henry Ames & Co.	For lease of the three-story brick warehouses, Nos. 1011, 1013, 1015 and 1017, North Main street, St. Louis, Mo., at \$375 per month, as required.	.....
60	St. Louis, Mo., Jan. 11, 1868.	La. Col. Chas. W. Thomas and Austin Walsh.	For 64 tons of hay, at \$19 75 per ton, at St. Louis, Missouri.	.....
61	St. Louis, Mo., Jan. 13, 1868.	La. Col. Chas. W. Thomas and Austin Walsh.		.....
62	St. Louis, Mo., Jan. 13, 1868.	La. Col. Chas. W. Thomas and Austin Walsh.		.....
63	Louisville, Ky., Jan. 10, 1868.	Gen. Thos. Swords and Jesse A. Mitchell.		.....
64	Louisville, Ky., Jan. 10, 1868.	Gen. Thos. Swords and Jesse A. Mitchell.		.....
65	Louisville, Ky., Jan. 11, 1868.	Gen. Thos. Swords and Redemer & Dodd.		.....
66	Louisville, Ky., Jan. 11, 1868.	Gen. Thos. Swords and F. A. Barbour.		5,000
67	Louisville, Ky., Jan. 11, 1868.	Gen. Thos. Swords and J. M. Tomkins.		5,000
68	Louisville, Ky., Jan. 13, 1868.	Gen. Thos. Swords and R. B. Wright.		5,000
69	Louisville, Ky., Jan. 15, 1868.	Gen. Thos. Swords and John V. Gould.		5,000
70	Louisville, Ky., Jan. 17, 1868.	Gen. Thos. Swords and Brown & Jones.		5,000
71	Louisville, Ky., Jan. 18, 1868.	Gen. Thos. Swords and Clark & Mills.	For 400 tons of hay, delivered at Nashville, Tenn., at \$19 85 per 2,000 pounds.	5,000
72	Louisville, Ky., Jan. 18, 1868.	Gen. Thos. Swords and J. W. Parsonson.	500,000 al, delivered	5,000
73	Louisville, Ky., Jan. 20, 1868.	Gen. Thos. Swords and L. R. West.	ed, at Hum-	1,000
74	Augusta, Ga., Jan. 4, 1868.	Gen. Rufus Saxton and W. Glendinning.	iron and to d for 2,000 pounds, and ord for 1,000 50 per cord	500
75	Philadelphia, Jan. 22, 1868.	Col. F. J. Cilly and I. H. Mann.	for less than 1,000 pounds. For stationary, modification of contract of Sept. 1, 1867, see schedule attached to contract.	.....



*Abstract of contracts made by the quartermasters' department, &c.—Continued.*

No.	Place and date.	Parties.	Nature of contract.	Bond.
76	New Orleans, Jan. 3, 1868.....	Gen. Chas. H. Tompkins and P. O'Donnell.		\$5,000
77	New Orleans, Jan. 3, 1868.....	Gen. Chas. H. Tompkins and W. E. Seymour.		5,000
78	Winchester, Va., Dec. 24, 1867.....	Lieut. Col. James M. Moore and Josiah Cooper.		.....
79	Fort Kearney, Nev., Nov. 26, 1867.....	Lieut. D. A. Griffith and Chas. Walker....		.....
80	Leavenworth City, Nov. 30, 1867.....	Major H. Iman and D. H. Mitchell.....		.....
81	Fort Rice, D. T., Sept. 26, 1867.....	Lt. W. J. Reedy and Demming & Galpin...		.....
82	Fort D. A. Russell, Sept. 1, 1867.....	Col. E. B. Carling and N. W. Hubbard....		.....
■	New Orleans, La., Nov. 12, 1867.....	Col. A. J. McGonnigle and C. G. Wayne...		.....
84	Fort Ontario, N. Y., Oct. 31, 1867.....	Lieut. C. E. Campbell and Sam'l Lippincott.		15,000 00
85	Nacogdoches, Texas, Nov. 20, 1867.....	Lieut. G. A. Ebbitt and J. H. Muchleroy...		2,000 00
86	Corinth, Miss., Nov. 23, 1867.....	Lieut. J. W. Morrison and McMullen & Whitfield.		1,000 00
87	Athens, Ga., Dec. 1, 1867.....	Gen. Rufus Saxton and Mary E. G. Harden.	building for barracks for 6 months, at \$10 per month. Note.—This contract is a substitute for one made by J. J. Knox, of Freedmen's Bureau.	.....

88	Americus, Ga., Dec. 14, 1867.....	Gen. Rufus Saxton and Wm. Serrine, agent.	For lease of 3 rooms for quarters and kitchen for troops, from December 14, 1867, to April 1, 1868, for \$15 per month.	.....
89	Albany, Ga., Dec. 13, 1867.....	Gen. Rufus Saxton with J. H. Merritt .....	For lease of 2 rooms in Merritt's house for quarters for troops, to April 1, 1868, for \$20 per month.	.....
90	Little Rock, Ark., Feb. 18, 1865.....	Capt. J. H. Pratt and Joseph E. Cavin .....	For 5,000 railroad ties, at 60 cents each, delivered on the line of the Memphis and Little Rock railroad.	1,500 00
91	Little Rock, Ark., Feb. 11, 1865.....	Capt. J. H. Pratt and George P. Brown.....	For 5,000 railroad ties, at 64 cents each, delivered on the line of the Memphis and Little Rock railroad.	6,000 00

Respectfully submitted:

QUARTERMASTER GENERAL'S OFFICE, March 9, 1868.

D. H. RUCKER,  
Acting Quartermaster General, Brevet Major General U. S. Army.

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8 CONTRACTS MADE BY QUARTERMASTERS' DEPARTMENT.

*Abstract of contracts made by the quartermasters' department, &c.—Continued.*

No.	Place and date.	Parties.	Nature of contract.	Bond.
76	New Orleans, Jan. 3, 1868.....	Gen. Chas. H. Tompkins and P. O'Donnell.		\$5,000
77	New Orleans, Jan. 3, 1868.....	Gen. Chas. H. Tompkins and W. E. Seymour.		5,000
78	Winchester, Va., Dec. 24, 1867.....	Lieut. Col. James M. Moore and Josiah Cooper.		.....
79	Fort Kearney, Nev., Nov. 26, 1867.....	Lieut. D. A. Griffith and Chas. Walker...		.....
80	Leavenworth City, Nov. 30, 1867.....	Major H. Inman and D. H. Mitchell.....		.....
81	Fort Rice, D. T., Sept. 26, 1867.....	Lt. W. J. Reedy and Demming & Galpin...		.....
82	Fort D. A. Russell, Sept. 1, 1867.....	Col. E. B. Carling and N. W. Hubbard....		.....
83	New Orleans, La., Nov. 19, 1867.....	Col. A. J. McGonnigle and C. G. Wayne...		.....
84	Fort Ontario, N. Y., Oct. 21, 1867.....	Lieut. C. E. Campbell and Sam'l Lippincott.		15,000 00
85	Neacogdoches, Texas, Nov. 20, 1867.....	Lieut. G. A. Ebbitt and J. H. Muchleroy...		2,000 00
86	Corinth, Miss., Nov. 23, 1867.....	Lieut. J. W. Morrison and McMullan & Whitfield.		1,000 00
87	Athens, Ga., Dec. 1, 1867.....	Gen. Rufus Saxton and Mary E. G. Harden.	30,000 pounds fodder, at \$2 per 100 pounds. For 160 cords of wood, more or less as required, at \$3 70 per cord. For lease of premises known as Fireman's Hall building for barracks for 6 months, at \$10 per month. Note.—This contract is a substitute for one made by J. J. Knox, of Freedmen's Bureau.	.....

88	Americus, Ga., Dec. 14, 1867 .....	Gen. Rufus Saxton and Wm. Sorrine, agent.	For lease of 3 rooms for quarters and kitchen for troops, from December 14, 1867, to April 1, 1868, for \$15 per month.	.....
89	Albany, Ga., Dec. 13, 1867 .....	Gen. Rufus Saxton with J. H. Merritt .....	For lease of 2 rooms in Merritt's house for quarters for troops, to April 1, 1868, for \$20 per month.	.....
90	Little Rock, Ark., Feb. 18, 1865 .....	Capt. J. H. Pratt and Joseph E. Cavin .....	For 5,000 railroad ties, at 60 cents each, delivered on the line of the Memphis and Little Rock railroad.	1,500 00
91	Little Rock, Ark., Feb. 11, 1865 .....	Capt. J. H. Pratt and George P. Brown .....	For 5,000 railroad ties, at 64 cents each, delivered on the line of the Memphis and Little Rock railroad.	6,000 00

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Respectfully submitted:

QUARTERMASTER GENERAL'S OFFICE, March 9, 1868.

O

D. H. RUCKER,  
Acting Quartermaster General, Brevet Major General U. S. Army.

